

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) NO: 14-CV-1025 RB-SMV
)
THE CITY OF ALBUQUERQUE,)
)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
STATUS CONFERENCE
BEFORE THE HONORABLE ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE
MONDAY, JUNE 11, 2018
8:30 A.M.
ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO

(Proceedings recorded by machine shorthand and
transcript produced by Computer-Aided Transcription.)

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5 CHIEF MICHAEL GEIER
6 COMMANDER JOHN SULLIVAN
7 COMMANDER ROBERT MIDDLETON
8 DEPUTY CHIEF ERIC GARCIA
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20 DOROTHY WOODWARD, member Northeast CPC

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E X H I B I T S

<u>EXHIBITS FOR THE GOVERNMENT:</u>	<u>IDENTIFIED</u>	<u>RECEIVED</u>
1 PowerPoint presentation re: CPCs	137	138
2 EPIC Program materials	137	138

1 (In Open Court at 8:31 A.M.)

2 THE COURT: This is *United States of America*
3 *versus City of Albuquerque*. We're here for a public hearing
4 today. I heard someone say just a moment ago that, gosh,
5 that's kind of an ambitious agenda you have there. I
6 thought the same thing when I saw it. And I'm glad to go
7 with you-all as far as we can this morning. I've got a
8 trial starting right after lunch here, a jury trial, so
9 we're going to go until noon. We'll do the best we can and
10 cover as much ground as we can.

11 So I think the first matter is we're going to
12 have opening remarks from the U.S. Attorney, Mr. Anderson.

13 MR. ANDERSON: Thank you and good morning, Your
14 Honor.

15 THE COURT: Good morning.

16 MR. ANDERSON: John Anderson, United States
17 Attorney. I appreciate the opportunity to present this
18 morning. And as I mentioned when we were last together in
19 March, the United States Attorney's Office for the District
20 of New Mexico and my colleagues from the Civil Rights
21 Division remain committed to seeing the CASA through and the
22 reform process through to the end. It's important, as I
23 mentioned in March, for a number of reasons. First and
24 foremost is that our community deserves effective law
25 enforcement and it deserves constitutional policing. And we

1 remain committed to working in partnership with the Civil
2 Rights Division and the Albuquerque Police Department to
3 ensure that policing in our community is done both
4 effectively to address the violent crime issue and also to
5 help the Albuquerque Police Department be the best
6 crime-fighting agency that it can be.

7 As the Court is aware, since we re- -- since we
8 convened in March, we've been in somewhat of a reset period.
9 The monitor has been providing technical assistance and APD
10 has been working on implementing a comprehensive Compliance
11 Plan. And my colleague from Civil Rights Division,
12 Mr. Killebrew, will address both the technical assistance
13 and the Compliance Plan in greater detail during his
14 remarks, but let me speak for a minute about the challenges
15 that we are focusing on now.

16 We are continuing to address the backlog on the
17 use-of-force investigations. We are working actively with
18 APD and the monitor on that front. We also recognize that
19 there is much to do in terms of bringing the Academy up to
20 fully staffed levels where it can implement these effective
21 compliance practices. We know that the APD officers deserve
22 high-quality training and that Academy and those training
23 programs remain critical to obtaining full compliance. And
24 we look forward to the City dedicating all the resources
25 necessary to providing the type of effective training

1 programs that the community and the officers need and
2 deserve.

3 We also remain encouraged by the active role that
4 the community stakeholders are playing here. We know that
5 APD continues to meet with stakeholder groups that are
6 represented here today. Those meetings take place every six
7 weeks. And we know that the APD has modified its policy
8 development to create opportunities for input from those
9 community stakeholders. So we remain very much encouraged
10 that the active role they're taking and the input that they
11 are having into this process.

12 Just to close, Your Honor, I think we are in a
13 very good place here. We have work to do, but we're moving
14 forward together. We see many positive signs coming from
15 the City and from APD. And we believe that they are, and
16 all of us together are, in a very good position to move
17 forward to coming into full compliance with the CASA.

18 So I look forward to hearing the input from
19 everybody today and I appreciate the Court's time and the
20 opportunity to address the Court on this important topic.

21 Thank you, Your Honor.

22 THE COURT: Thank you, Mr. Anderson. I
23 appreciate your remarks.

24 And we're going to hear from Ms. Nair now on
25 behalf of the City.

1 MS. NAIR: May it please the Court.

2 Good morning. Thank you for this opportunity --

3 THE COURT: Good morning.

4 MS. NAIR: -- to address the Court in the place
5 of Mayor Keller, who sends his regrets because he's
6 traveling for work.

7 We are now six months into our administration.
8 During this time, we've changed top leadership, created the
9 Compliance Bureau, moved Internal Affairs into the
10 Compliance Bureau and divided it into an IA Force and IA
11 Misconduct Division. We've identified and begun to work
12 through the backlog of use-of-force investigations;
13 negotiated a collective bargaining agreement with APOA;
14 reactivated and staffed up the community policing councils;
15 and passed a budget that provides for more officers, more
16 compliance resources, updated technology, and a wide array
17 of non-enforcement programs, including substance abuse
18 treatment and diversion programs.

19 But most importantly, we have changed the City's
20 and the Department's attitude towards the DOJ and the
21 monitoring team, who were once considered to be our
22 opposition, to treat them as partners in transforming the
23 police department.

24 What I am most positive about are the strides we
25 have made in the world of data collection, understanding and

1 delivery. I remember my own disbelief when I read IMR-6 and
2 last year's outcome assessment report. At various times,
3 the monitor described APD data as "haphazard, incomplete,
4 incoherent, and inconsistent," and noted that "APD, while it
5 tends to collect a massive amount of data, appears not to be
6 a data-driven organization." That notion was unacceptable
7 to us.

8 You will hear more about this today, but from my
9 perspective, we're not creating perfect data sets yet, but
10 we've taken the most important step: We've shifted from
11 compiling data because the monitor is making us to compiling
12 data so that our own leadership can evaluate operations and
13 strategize on the best way to make improvements. This is a
14 huge shift in both the mindset and the day-to-day work. We
15 can now identify our own weaknesses, both in data and in
16 performance, and work on doing better instead of waiting for
17 others to call us out.

18 I'm grateful to Chief Geier, Deputy Chief Garcia,
19 Lieutenant Lowe, Dr. Winnograd, and their excellent team,
20 who made this a reality. I'm also cautiously positive about
21 the change to the Use-of-Force Policy Suites. The old
22 policies didn't work for anyone, officers in the field,
23 supervisors doing reviews, the DOJ, or the community. I am
24 not always as patient as I should be, but I believe the time
25 line you will hear about today strikes the right balance

1 between meaningful input from everyone and efficiency.

2 On the other end of the spectrum, what I see as
3 the most arduous piece of this journey is the need for
4 culture change. By "culture change," I mean taking the
5 positive, proactive shift in mindset and tactics that we've
6 begun to see in the Compliance Bureau and making it
7 persuasive throughout the organization.

8 James Baldwin said, "Not everything that is faced
9 can be changed, but nothing can be changed until it is
10 faced." In the past six months, we've turned to face the
11 roadblocks that are holding back our progress at APD.
12 Everyone in this room has helped to articulate what needs to
13 be changed. Now we need to do the work.

14 You can't buy culture change. There's no
15 culture-change software. There's no single magical
16 cultural-change training. That said, when we address this
17 historical underfunding of compliance efforts, the lack of
18 the coordinated data systems, and the lack of meaningful
19 feedback loops for continuance training, we are addressing
20 the symptoms of that old culture.

21 Culture change is slow, iterative, and painful.
22 Culture change hurts feelings. People retreat into their
23 shells and quit because of culture change, but then again,
24 culture change can be empowering and enduring. People step
25 up and join in because of culture change. Culture change

1 supports people trying to do the right thing. You will hear
2 from many of those people within APD today and there are
3 many more.

4 Dr. Rickman speaks of police transformation. Our
5 administration believes it is important to talk about what
6 the Department will look like when that transformation is
7 complete. So in closing, let me share some of that vision.

8 APD will be a Department with officers at every
9 rank who want to be held accountable and want to hold their
10 sisters and brothers accountable because that is how we
11 excel. Today you will hear about the EPIC program, which is
12 a step in that direction. APD will honor how critically
13 important it is to support officers as they enforce laws and
14 get collars, and will also honor how sensible and
15 Constitutional use of force increases the likelihood of
16 convictions and positive outcomes from that enforcement
17 action. APD will tackle crime as a problem to be understood
18 and solved from all angles and with all tools. The
19 Department will value the powerful tools of knowing the
20 community inside and out, earning their trust, and treating
21 people experiencing mental health and substance abuse
22 challenges with respect and dignity. APD and City Hall will
23 always have a healthy tension, but both will understand that
24 calling a mistake a "mistake" is a form of support.

25 I'm pleased to report that we are on our way to

1 making the changes we need to institutionalize
2 constitutional community policing in a way that will
3 transform our police department and our City.

4 Thank you for this opportunity to speak to the
5 Court. And I stand for questions.

6 THE COURT: I don't have any questions, Ms. Nair,
7 but thank you very much for your remarks.

8 Dr. Ginger, are you next up? Presentation of the
9 first status report?

10 DR. GINGER: Okay. Sorry. I'm sorry, Your
11 Honor. I was a bit confused about the order.

12 THE COURT: You know what? I don't mean to
13 confuse anyone. Whoever is up, let's go.

14 DR. GINGER: It's me. "It is I," as they say.

15 Thank you, Your Honor. I intend to be very
16 brief. What I have to say is a bit behind the curve. This
17 process has already gone well past what I have to talk
18 about, but my role is to talk about the interim report for
19 IMR-7, which the Court has already received and, I'm sure,
20 read. It had analyzed steps that would need -- needed to be
21 taken to move forward in this process. And as the Court
22 knows, this was -- the last site visit was not a typical
23 site visit. It was designed to do TA. We provided APD with
24 37 separate pieces of technical assistance in this last six
25 months. Most of it on site, but some of it by telephone.

1 We -- just some of those pieces, I'll mention
2 them, so the Court and those listening can understand. Some
3 of those pieces involved developing internal problem-solving
4 processes. We find -- we have found that in the past to be
5 a major weakness with APD. There seemed to be no ethos to
6 actually think about the process of solving problems. It
7 was more "let's just respond, let's try this, let's try
8 this." And in many cases, there wasn't even an assessment
9 of whether it had worked -- something had worked or not
10 until the monitor came out with a report. And that was
11 something we worked diligently with this new group at APD to
12 try to make sure they understand the need for a clearly
13 articulated problem analysis and an internal
14 problem-solving. They shouldn't rely on the monitor to
15 develop those processes. They need to be internal to the
16 PD.

17 We also provided technical assistance on revising
18 the existing use-of-force process and addressing what is a
19 significant use-of-force investigation backlog. That was a
20 major piece of what we did when we were on site over the
21 last six months. And we've been here several times on
22 several sort of mini visits because we needed to craft
23 carefully designed discussions and then training to allow
24 APD to understand where they were, where they needed to be,
25 and what they might best do to move that forward.

1 We gave additional training on revising the
2 Use-of-Force Policy. And I'm pleased to say that we have a
3 Use-of-Force Policy that the main policy is approvable by
4 the monitor as I stand here right now. It doesn't require
5 huge amounts of revision and so forth. If the Court
6 recalls, it took almost a year, I think, for the last
7 Use-of-Force Policy to get ground through and approved.
8 This took about less than six months, so that's a major
9 improvement.

10 We find APD to be highly receptive to our
11 discussions. If we recommend that they contact folks who
12 have been through this before, which we always do, they take
13 us up. Usually on that recommendation, there's a follow-up
14 contact. So that's another huge difference we've seen.

15 We also provided technical assistance on revising
16 the training positive processes for use of force. As the
17 Court is aware, in our last few reports, we were not very
18 effuse in our praise, I guess, of the process involved in
19 training for use of force. It was sort of haphazard and
20 didn't quite fit the model that the CASA requires. We find
21 that this new policy and process that APD is intending to
22 use to train this new policy is markedly improved. So I
23 think that's another -- another good piece. We spent a lot
24 of time on that over the last six months. And we continue
25 to do so, to try to be sure that we get not only a good

1 Use-of-Force Policy, but we get a training practice that is
2 modern enough to ensure that the officers understand what
3 this policy is and they're able to implement it in the
4 field.

5 We also provided new training processes for
6 supervision, supervisory processes, to make sure that those
7 meet with national standards and expectations. I'm sure the
8 Court recalls that almost every one of our previous
9 monitoring reports has been highly critical of the
10 supervisory process. In terms of missing obvious issues in
11 use of force or whatever that case might be, the supervisory
12 process has been a significant impediment over the past
13 three years, three and a half years. The new training that
14 we see, the new policy that we see, the new process that we
15 see with the new -- new APD is much improved. And I'm
16 pretty sanguine about the processes that will lead to some
17 type of acceptable overall outcome.

18 We also provided technical assistance on recruit
19 training, basically, training for new officers coming into
20 APD, to try to get that a little bit better tuned. It was
21 not as problematic to us as the old supervisory training,
22 but -- it was better than that, but it still needed some
23 fine tuning, so we provided specifically training in that
24 process.

25 We also provided substantial technical assistance

1 on integrating policy into training for patrol officers
2 during that six-month period. And that was linked to the
3 training that we provided related to supervision.

4 And then the seventh and final piece was we
5 provided some substantial amount of training on
6 administration process to try to get the folks -- many of
7 whom were new to their jobs at APD, to get them to the point
8 that they understood what was required by the CASA; what was
9 required of APD in order to document that they were, indeed,
10 adhering to the CASA. And we did some fine tuning of
11 process as well.

12 So those 37 pieces that we provided over that
13 six-month period, I think, have gotten APD to the point that
14 they have a substantial foundation now and they should be
15 able to move forward. We see no lack of willingness with
16 new command. They're literally thirsty for suggestions and
17 process that might help them move forward.

18 While we're here this time, we'll be providing
19 some strategic planning training for key command staff.
20 That's probably the one piece that is missing right now, is
21 an overall understanding and development of good strategy
22 designed to move everything forward. So we'll spend a good
23 chunk of today, Wednesday, this Wednesday, with command
24 staff, key members of command staff, D.C. Garcia and his
25 folks, all of the deputy chiefs, trying to work them through

1 a strategic planning process for APD. And that should be
2 the icing on the cake that should get us to the point that
3 we're really ready to move this train forward. And I'm
4 looking forward to writing some reports that look different
5 from what the Court has seen in the past.

6 I'd be happy to respond to any questions that
7 there may be.

8 THE COURT: No, I don't have any questions,
9 Doctor. Thank you.

10 I'm looking forward to those reports, too. I
11 think we all are.

12 Deputy Chief Garcia?

13 D.C. GARCIA: Good morning, Your Honor.

14 THE COURT: Good morning.

15 D.C. GARCIA: Deputy Chief Garcia with the
16 Albuquerque Police Department. And our report today will
17 focus on our efforts and our progress with the Compliance
18 Plan.

19 Today you will hear from members of our team, who
20 have been doing -- who are leading the efforts in achieving
21 our goals with the Compliance Plan. I wanted you to meet
22 each member of the team who is responsible for those areas.
23 I know you haven't met them in the past. I think it's
24 important for the Court to meet with them, to know who is
25 doing that work.

1 I'm proud of the work that they have done. We do
2 have a lot of work to be done, and we know that, but I
3 believe we are moving forward. Like Mr. Anderson said, we
4 are meeting with the amici every six weeks. Our intent is
5 to get input from the community as much as possible on our
6 policies and our processes, not only to show them what we
7 are doing, but to get their input and hopefully improve the
8 way we are doing things.

9 Our first area right now will be use-of-force
10 investigations backlog. And that will be presented by
11 Commander Robert Middleton.

12 CDR. MIDDLETON: Good morning, Your Honor.

13 THE COURT: Good morning, Commander.

14 CDR. MIDDLETON: I am Rob Middleton, as D.C.
15 said, and I'm the commander of the newly implemented
16 Internal Affairs Force Division. When I got this assignment
17 and promotion to this position, I was excited to start. I
18 knew that a lot was ahead of me. And I was assigned two
19 priorities. The first was the Use-of-Force Policy Suite.
20 We had to revamp and redo the entire thing for the
21 Albuquerque Police Department. And like Dr. Ginger said,
22 we're on track. We've got the input from all the parties
23 and I think we're putting together something that all the
24 officers will understand and be able to use in the field and
25 apply it and understand it as well.

1 The second thing is the -- was the use-of-force
2 investigations backlog. And that was the biggest thing --
3 our biggest hurdle that we have to get over in APD.

4 I have some notes here, too, that everybody can
5 look at as I speak.

6 The investigative backlog was originally defined,
7 on September 20, 2017, as 110 incidents of use of force and
8 40 incidents of show of force.

9 THE COURT: Commander, excuse me. Is there a way
10 that we could turn one of those monitors so that the people
11 in the gallery could see it?

12 (Discussion off the record.)

13 MS. MARTINEZ: Your Honor, if I may, immediately
14 after this proceeding, we do have DVDs with all of these
15 exhibits on them that we will make available to individuals
16 here in the courtroom. And we also will be sending out an
17 e-mail to individuals on what we call our APD list. And I
18 believe almost everyone here is on that list. And if they
19 are not, Ms. Ferda can collect their e-mail addresses so
20 that they can get this information.

21 THE COURT: Perfect. That's going to be helpful
22 to have it later, but to be able to follow along, I think it
23 will add something to the Commander's presentation, but I
24 appreciate that, Ms. Martinez.

25 And so if -- I hope everyone heard. Ms. Martinez

1 said that this information will be made available to all of
2 you in electronic form after the hearing, so -- and
3 otherwise, kind of scootch together to look at the monitors.

4 All right. Commander, go ahead.

5 CDR. MIDDLETON: Thank you, sir.

6 Just to reiterate, on September 20, 2017, the
7 use-of-force backlog list comprised of 110 incidents of use
8 of force and 40 incidents of show of force. When I got my
9 group together and we looked at what the numbers were and we
10 dove into the actual case numbers of use-of-force backlog,
11 we reorganized that and defined it as any use of force case
12 that was in the queue over 120 days.

13 We had that submitted by May 7th and we
14 identified 284 incidents of use of force that met that
15 criteria. Those 110 incidents of use of force and 40
16 incidents of show of force are included in that 284.

17 We went back in 120-day increments from there.
18 And on December 9th, we checked what was over the 120
19 days, and we found that there were 46 incidents of use of
20 force, but those 46 were included in the 284.

21 We went up to April 17th and we checked and
22 found that there were 36 incidents of use of force. And 6
23 of those were included in the 284. So we added the 30 plus
24 the 230 incidents to come up with our defined use-of-force
25 backlog cases of 314. This is a complicated process. And

1 with the assistance of City Attorney Jeramy Schmehl, we
2 verified these numbers again and again. We have the case
3 numbers for each one of these 314.

4 In addition to that 314 use-of-force and
5 show-of-force cases, we found that there were 89 incidents
6 of serious use-of-force. And those were cases that had not
7 yet been completed investigation or reviewed and are waiting
8 to go to FRB.

9 Of those 89 incidents, 63 of those are either
10 completed through the investigation or they're being
11 investigated under the new scrutiny of the Internal Affairs
12 Force Division.

13 26 of those 89 are completed and have -- and were
14 completed prior to my arrival. So we're going to consider
15 those the serious use-of-force backlog that we will review
16 as part of that process, prior to going to the FRB, the
17 Force Review Board.

18 There are several reasons why a backlog was
19 created, in the first place. One is that there weren't
20 defined time limits for the chain of command and Field
21 Services Bureau to get their cases, the incidents,
22 investigated, reviewed, and submitted to go to the Internal
23 Affairs warehouse, which is called IAPro.

24 With the help of D.C. Medina -- he issued Special
25 Order 18-58 on May 18, 2018. And in that special order, he

1 directed all field chain of command to get their case --
2 their use-of-force incidents investigated and submitted to
3 IAPro to our side and the Internal Affairs Force Division
4 within 60 days. And D.C. Medina is going to come up right
5 after me --

6 THE COURT: Excuse me, Commander. So as of
7 May 18th, a couple weeks ago of this year, an order was
8 issued that all of the serious uses of force be cleared?

9 CDR. MIDDLETON: All use of force and show of
10 force.

11 THE COURT: All of them, huh? This is 300-plus?

12 CDR. MIDDLETON: No, sir, no. I'm going to go
13 into that a little bit later. So these were incoming cases.
14 So that was to prevent any more numbers being added to that
15 314. So there are use-of-force incidents happening probably
16 as we speak. We want those done and completed within 60
17 days, so they don't go over that 120-day time limit and add
18 to the cases that we have to review.

19 THE COURT: All right. So for incoming uses of
20 force?

21 CDR. MIDDLETON: Yes, sir.

22 THE COURT: Sixty days is the limit --

23 CDR. MIDDLETON: Yes, sir.

24 THE COURT: -- within which they are to be
25 investigated?

1 CDR. MIDDLETON: Yes.

2 THE COURT: And you're going to tell me in a
3 minute, I'm sure, how we're going to address the backlog --

4 CDR. MIDDLETON: Yes. Yeah, that's coming up --

5 THE COURT: -- going forward?

6 CDR. MIDDLETON: -- in just a bit.

7 THE COURT: Thank you.

8 CDR. MIDDLETON: All right. There is an
9 additional reason why there are so many cases backlogged.
10 One of them, like I said, is on the administrative process
11 of this in the Internal Affairs Force Division. We have one
12 administrative assistant who checks the incoming, the
13 completed investigations, use-of-force investigations, for
14 any clerical or administrative errors that might have
15 happened in the field with the chain of command, so with the
16 officers, themselves, the sergeant, lieutenant, commander,
17 prior to the arrival at the Internal Affairs Force. That's
18 our one person assigned to make sure that those errors
19 aren't happening.

20 And there was an additional problem when -- and
21 I'm going to give you an example here: If a use-of-force
22 incident occurred in the field involving multiple officers,
23 and we'll say five officers were involved, those five
24 officers would open up what's called "Blue Team" and they
25 would make an individual entry into Blue Team for that one

1 use-of-force incident. So when that goes -- openings went
2 through the chain of command, it got to our administrative
3 assistant, who had to check for clerical errors, that all
4 five matched the information prior to submitting that into
5 the warehouse of IAPro. So that created a backlog on the
6 administrative side. And this is different from the 314.

7 So on April 13, 2018, we found that there were
8 327 cases awaiting entry into IAPro. We came up with two
9 solutions for this: One was to add one administrative
10 assistant, and her name is Andrea. She's doing a great job
11 for us, and she is assisting our permanent administrative
12 assistant.

13 The next was we issued Special Order 18-60 on May
14 21st. And in that special order, it directed all
15 first-line supervisors that when they were in charge of a
16 use-of-force incident, they would be responsible for opening
17 the Blue Team entry for that incident, not the officers. So
18 for the same example, if there are five officers involved in
19 that use-of-force incident, the one sergeant would open up
20 the Blue Team, and we would take care of any clerical errors
21 up front in the field prior to arriving in IAFD.

22 So on June 1st, when we checked the
23 administrative delay, we saw that the cases went from 327
24 awaiting entry into IAPro down to 160 cases. And we foresee
25 a workable number now that we have that plan in place that

1 will be between zero and ten cases at any given time
2 awaiting entry into IAPro once we get rid of that
3 administrative delay.

4 THE COURT: So you went from 327 to 160 in six
5 weeks?

6 CDR. MIDDLETON: Yes, sir.

7 THE COURT: So can we think, on that same
8 timetable, six weeks from now, we'd have everything entered
9 into IAPro?

10 CDR. MIDDLETON: Yes, sir. And it will be a
11 workable number because, as we speak, cases are being
12 generated. So on any given week, we might have two to three
13 additional use-of-force incidents coming in that need to be
14 entered, some weeks we might have more, you know, 10 to 15,
15 so it could be a workable number between, we're predicting,
16 zero to ten cases as a workable number.

17 THE COURT: And the special order in May said you
18 have 60 days to get these things investigated?

19 CDR. MIDDLETON: No. That was a different
20 special order. This special order directs all supervisors
21 that they are responsible for entering the use-of-force
22 incident into Blue Team.

23 THE COURT: Okay. The May 18th order said 60
24 days?

25 CDR. MIDDLETON: Yes. The May -- yeah, that was

1 the May 18th order, yes.

2 THE COURT: And what happens if it doesn't? Is
3 there a downside?

4 CDR. MIDDLETON: There are consequences. And
5 Deputy Chief Medina has taken on the responsibility to hold
6 the chain of command and Field Services Bureau accountable
7 for that special order.

8 THE COURT: All right. Thank you.

9 CDR. MIDDLETON: Yes, sir.

10 There was just some key words on here and I'll
11 explain what all this means. We have put together a
12 use-of-force backlog investigative team. And I was just
13 speaking to Dr. Ginger this morning that that team, their
14 official order starts today, this morning. And their
15 directive is to review the 314 use-of-force incidents and
16 shows of force and the 26 serious use-of-force incidents.
17 What we're looking for are any policy, training, or tactical
18 deficiencies in those cases. The backlog investigators will
19 be looking for problems with the chain of command -- with
20 the officer, themselves, and the chain of command, and how
21 they identified, reported, investigated, and reviewed those
22 use-of-force cases.

23 After going through these 314 and 26 cases, this
24 team will be well prepared and will be able to move forward
25 in the future with this new Use-of-Force Policy Suite to

1 thoroughly, consistently, and objectively investigate and
2 review a use-of-force. That's our goal. That's our plan.
3 And that's our methodology that we've put in place.

4 As the Backlog Review Team goes through these
5 cases, they will be -- one of their objectives is to
6 identify officers who routinely violate a use-of-force
7 policy. We'll be making referrals for them to get
8 counseling, retraining, or possibly reassignment as we go
9 through that backlog. The backlog investigators will be
10 assessing findings in the review process and they'll be
11 looking for policy violations, potential criminal conduct,
12 deficiencies in identifying reporting and investigating the
13 use of force. And after going through the cases -- or well,
14 it's going to be simultaneously, we're going to be making
15 referrals to the Assistant Direct Attorney for possible
16 prosecution or declination letters on these cases as well as
17 to the Academy. And Cdr. John Sullivan knows and it's part
18 of the plan to train these officers. And if it's on a macro
19 level where we're identifying something that has happened
20 again and again, we know we have a Department-wide
21 deficiency where we can train the entire Department on what
22 we've noticed prior to going forward. One of the other
23 referrals we'll be making is for the chain of command for
24 counseling and possible progressive discipline.

25 Back in March, we put together a Compliance Plan,

1 and this is the last slide. And we had ten -- we came up
2 with ten objectives to meet with the deadlines that you see
3 in the column there. The first three objectives that we
4 came up with we met by May 7th and that was specifically
5 defined in the backlog. We wanted to define the scope of
6 the use-of-force investigative backlog, which we did. And
7 we wanted to compile a list of the investigations to be
8 completed, which we did.

9 Next, we wanted to prioritize them. We came up
10 with a priority list of how we would deal with the backlog.
11 And the very first priority, and the recommendations from
12 the monitors, Dr. Ginger, and accepted through the chain of
13 command to be was that we would look at the top nine users
14 of force and start with them, just in case the possibility
15 existed that they were still operating under the same
16 practice they did in a use-of-force incident that might be
17 happening now. So that's why reassignment was one of the
18 objectives there. We would have to stop that action or
19 possible retraining, counseling, or progressive discipline.

20 Next, we wanted to identify -- or we came up with
21 a plan to identify video that corresponded to each
22 use-of-force incident, but we found that this would happen
23 naturally anyway. As the investigators go through each
24 incident, their plan was to -- their objective is to look at
25 the video, the on-body recording device of the officers, so

1 we didn't have to set this up ahead of time. So for
2 efficiency reasons, it's part of the backlog investigation,
3 case by case. So I wrote a memo to the chain of command
4 explaining that.

5 So the next, we wanted to develop a training plan
6 with APD Training Academy to conduct reviews of backlog
7 use-of-force investigations. We wrote a seven-step
8 comprehensive training process that's been accepted through
9 the Academy and viewed by the monitors. And our first round
10 of training has been conducted. We have revised -- part of
11 the seven-step process is the revision, so we did a revised
12 needs assessment and lesson plan PowerPoint, and we're going
13 to be delivering that next round of training at the end of
14 the month to the Backlog Review Team.

15 Next, we wanted to identify the personnel, and
16 that is on a temporary duty assignment or collateral duty,
17 but we needed to get people in there to help develop this
18 process up to this point. We did get people in there. And
19 I wrote a staffing plan and, like I said earlier, the
20 staffing plan was approved and our first seven officers were
21 transferred today, three sergeants and two lieutenants, and
22 they're working on it, as we speak.

23 The next one just falls right in line with that,
24 the delivering of the training. We completed the training.

25 Next, we wanted to do weekly meetings where we

1 collected minutes in the meetings. We've done three
2 meetings with our Backlog Review Team. And we've revised
3 the weekly meetings all three times, so we think we have a
4 good work-in-process right now to collect the minutes. And
5 this will be -- the minutes will be able to identify the
6 trends in the backlog that we're seeing, and we're going to
7 be able to create Excel spreadsheets to identify those
8 trends and make those transparent to everybody.

9 The next two were about the video process,
10 itself. The video process -- the video investigative
11 training was done in the initial round for the Backlog
12 Review Team. The second one, I completed a -- I did a
13 staffing plan for a video review unit. Everyone in my unit
14 has read IMR-6. And then one of the directives in IMR-6 was
15 that we create an efficient, effective, and trained unit to
16 watch on-body recording device videos from beginning to end.
17 So that staffing plan has been submitted and I'm waiting on
18 the budget to approve the hiring of six non-sworn personnel
19 to go through that -- the videos.

20 Your Honor, there's some great detail that we've
21 done here. I told Dr. Ginger this morning that we've
22 created hundreds of documents already. We're ready to go
23 and we're going to revise this process through the 314.
24 It's a learning process as well. So with the Use-of-Force
25 Suite and doing our homework with the backlog review, we

1 will be ready for incoming cases with the new policy.

2 And do you have any questions for me? It looks
3 like you have quite a few.

4 THE COURT: Do I have that look on my face?

5 CDR. MIDDLETON: Yeah.

6 THE COURT: This is a -- you've described a
7 really daunting task.

8 CDR. MIDDLETON: Yes, sir.

9 THE COURT: Those are big numbers. And those
10 numbers are of a concern to everyone in the community. Do
11 you have any -- and if you said it, I missed it. Do you
12 have any target date to have worked through the backlog?

13 CDR. MIDDLETON: We have only projected dates
14 right now. Today is -- we have gone through some
15 use-of-force cases in the backlog, but based on
16 recommendation, as well as by the monitors and Dr. Ginger,
17 we're putting together a performance metrics. And we're
18 going to go through the next 30 days to see how many cases
19 these seven officers can go through in the next 30 days.
20 We're going to be put a formula together to show what we
21 expect the deadline will be with those seven. And I expect
22 it won't be a number that anybody will want. They will want
23 it earlier than that, so I'm going to be asking for
24 additional personnel to add to my Backlog Review Team to get
25 that number down to within a few months. And I can't tell

1 you right now what that deadline will be until we do the
2 metrics for it, but it will be in 2018.

3 THE COURT: So you've got seven people on the
4 team and you may add others --

5 CDR. MIDDLETON: Yes, sir.

6 THE COURT: -- to the team. But if I remember,
7 macro sense, you guys are -- ought to be at 1,000 officers
8 and you're at 800 or something? Remind me what those
9 numbers are.

10 CDR. MIDDLETON: I don't have those numbers right
11 now. Chief might have that numbers, but I don't have that
12 data available now.

13 THE COURT: My point being --

14 CDR. MIDDLETON: Yeah.

15 THE COURT: -- this: If you are at a point where
16 you don't have enough officers, as it is, and you're taking
17 lots of officers, several officers, off the street to do
18 this sort of review, how do you cover the waterfront? Tell
19 me how that works.

20 CDR. MIDDLETON: That's going to be a recruiting
21 and retention plan that has been put in place. And I know
22 that the recruiting with Commander Sullivan has gone up
23 quite a bit. They just seated a class of 45 right now. And
24 I believe this might be a question for Ms. Nair that
25 officers probably will not be retiring, based on than

1 retention plan. That's on a Department-wide level that I
2 somewhat understand. And I understand that the backlog is
3 also a priority, and we're doing our best with this Backlog
4 Review Team and Internal Affairs Force Division to, I guess,
5 spread the impact that it has on the Department.

6 So when we first started recruiting officers for
7 this unit, I told the six area commanders that I'm not going
8 to hit your area of command and take all seven from you. So
9 we did spread it out where we took some from an
10 Investigative Unit. And I know Cdr. Arturo Gonzalez is in
11 the back. We took two of his investigators, and then we
12 took one officer from five area commands in addition to
13 that. So just to spread the impact. That's -- we're
14 consciously trying do it without hurting any area commands
15 too hard.

16 THE COURT: Is Ms. Nair still over there?

17 MR. AGUILAR: No, Your Honor. She stepped out.
18 She had to leave the hearing.

19 THE COURT: Okay. Who can give me those macro
20 numbers? Deputy Chief Garcia?

21 D.C. GARCIA: Your Honor, Deputy Chief Medina
22 will be handling that and can speak to those. And he can
23 speak to how the area commands are still going to be
24 operating out in the field and he can also assist with those
25 numbers.

1 THE COURT: That's great. And when I hear from
2 Chief Medina, I want you to talk about the retention plan
3 and if are we seeing benefits from that already. Are fewer
4 people retiring? I hope you can address those things for me
5 because, ultimately, it's numbers, it's always
6 numbers-driven.

7 So those were the questions I had. And good
8 luck, God bless you. You've got a daunting task. But you
9 know what? Everybody's watching. You know that.

10 CDR. MIDDLETON: Yeah, we understand that.

11 THE COURT: So not to, you know, put any more
12 pressure on you. Thank you, Commander.

13 CDR. MIDDLETON: I understand that, Your Honor.
14 And I hear the people laughing in the back, and they are
15 ones who are helping me, as well. We're not taking this on
16 by ourselves. Elizabeth Martinez has been a great help with
17 the Use-of-Force Policy Suite. And we are taking the
18 recommendations from the monitors and Dr. Ginger. One thing
19 we were told is don't throw 20 people at this and hope it
20 works. Put the plan in place, first. We have a process for
21 our plan and we started off with seven officers. So that's
22 our plan in place prior to submitting the performance
23 metrics.

24 THE COURT: Great. Thank you.

25 CDR. MIDDLETON: Thank you, sir.

1 THE COURT: Thanks for your report.

2 So we're going to hear from Deputy Chief Medina
3 right now.

4 D.C. MEDINA: Good morning, Your Honor. And good
5 morning to everybody in the court.

6 THE COURT: Good morning, sir.

7 D.C. MEDINA: My name is Harold Medina, I'm
8 Deputy Chief of Police of the Field Services Bureau.
9 Basically it's all the uniformed officers along with -- I'm
10 helping with oversight of the Academy and also with the
11 tactical section. That's probably the reason why I was
12 asked to help address the inching backlog of use-of-force
13 cases because most -- the vast majority of those cases do
14 generate in the Field Services Bureau.

15 A couple things about me that I've heard this
16 morning that are enlightening is I'm a numbers-driven
17 person. If you tell me there's change, I want to see the
18 change in the numbers. If not, I don't believe the change
19 has occurred. The other thing is I believe in cultural
20 change. I believe what the CEO said. If we're going to
21 effect change that is longterm, that makes the Department
22 better, that makes the Department more in tune with the
23 community, we need to change the culture in the Department.
24 And when United States Attorney Anderson was speaking
25 earlier, he made a couple points that I took note of: He

1 said we need to become a Department that understands and
2 practices constitutional policing. And he said we need to
3 reduce crime rates, and the community deserves a police
4 department that is efficient and gets things done within the
5 community.

6 When I arrived in December, I think it's
7 important to note that what the state of the Department was
8 that I came back to. I looked and I saw that it was
9 struggling in implementing the requirements of the CASA,
10 that -- but that wasn't the only struggle. I saw the
11 highest crime rates the city had seen in 20 years.
12 Recruiting efforts were six, seven officers sometimes per
13 Academy class. Community policing was more about checking a
14 box than truly getting to the spirit of community policing.
15 The officers were afraid to do their job and there was low
16 morale.

17 In dealing with the use-of-force back -- delay
18 that these cases were taking, I took all those things into
19 consideration as we developed a plan. The first thing I did
20 is I sat down and I discovered that we couldn't even
21 generate a number. The first weeks I was here, I got
22 numbers from 130 cases to 400 cases and the number
23 consistently changed. We knew there was a problem with the
24 data and what questions we were asking and what kind of
25 response we were going to develop.

1 The first thing I did is I asked that my
2 Operations Review Section find where the cases were not
3 getting completed at. And we quickly found that most of the
4 cases were stuck at the lieutenants' level and were not
5 getting past the lieutenants. We identified some
6 lieutenants who had as many as 20 cases pending in their
7 queue that had not been investigated.

8 We also found that one of biggest problems was,
9 when they implemented this policy, they didn't create a
10 deadline. There was a 72-hour deadline for the officers to
11 get it done. Guess what? There's no officers on the list.
12 All these cases were being held up at the sergeant level,
13 which had no deadlines; the lieutenant level, which had no
14 deadlines; the commander level, which had no deadlines.

15 We also found that there was no tracking system.
16 Sometimes people will do their job if you just give them a
17 little reminder. There was no system that really told us
18 when cases got to a certain point and when people were
19 falling behind.

20 And the last thing is I realized that we needed
21 to look some of the best practices around the nation to see
22 what they were doing.

23 So at this point in time, we began to address
24 this problem, but we also began to address what the Chief
25 had determined were the priorities for the Department,

1 making sure that we followed and implemented all the aspects
2 of the CASA, making sure that we were working on reducing
3 crime, making sure that we were working on recruiting police
4 officers, and making sure that we're developing a good
5 strong community policing program and increasing the morale
6 of our officers.

7 So the first thing we did related to developing a
8 tracking system is we made a very simple system. The system
9 works where I get -- every -- twice a week, I get a list
10 that says how many days since the crime occurred -- I mean,
11 since a use of force occurred and how many days has it been
12 sitting with the individual responsible for that case. And
13 I go through this personally twice a week and the commanders
14 are probably tired of me sending them an e-mail that says,
15 "These ones need to be done and make sure your lieutenant is
16 doing this."

17 One of the other first things we did is we also
18 made difficult phone calls to commanders and we advised them
19 that their lieutenants who were behind on their use-of-force
20 cases could come to work in plain clothes and that you would
21 find an upgrade for them for their field duties and their
22 responsibility would be to clear these use-of-force cases or
23 they will not return to the field. It was pretty motivating
24 because most of the lieutenants had their queues cleared
25 within two weeks. And when I first started, we had a number

1 of almost 300 and -- 160 cases in the queue that needed to
2 be cleared out and that were being delayed in the use of
3 force above 60 days that we knew we were going to establish
4 as a deadline.

5 So one of the charts we created for -- to help me
6 track a little bit easier is anything under 60 days I know
7 is still without delay and they still have time. Anything
8 61 to 120 days, we know we have a priority on. Anything 120
9 to 180 is a separate priority. And anything above 240 days
10 is the utmost of priorities. Right now, I could tell you
11 that the current numbers I got, as of Friday, the
12 60-to-120-day cases were at 35. The 120-to-180-day cases
13 were at 9. And there was only one case that was 180 to 240
14 days old. I tried to get an update this morning because I
15 know several commanders worked through the weekend to try to
16 reduce that number. And hopefully, I'll have an updated
17 number sometime later today on that.

18 So those are the results. As you can see, we
19 clearly are reducing the delay by creating a 60-day time
20 frame in which they have to get it done. Several
21 lieutenants have already been disciplined as a result of the
22 reviews by their commanders, which tells us the commanders
23 are reviewing the cases. They're holding their lieutenants
24 accountable. There's possibly more discipline that will
25 come about later because of the fact that some of those

1 cases with some of those lieutenants were greatly held up
2 and not being done in a timely fashion. But we're also
3 waiting for the review of these cases through
4 Cdr. Middleton's process because I want to make sure that
5 there isn't something wrong in our training or how we
6 implemented this back when it was implemented. That may
7 lead us to the reason why some of these lieutenants were
8 holding onto cases. I want to make sure we're fair with the
9 officers because that goes hand in hand with morale, but not
10 only do we see that our use-of-force cases that are being
11 delayed, the delay has shortened and we're almost clear from
12 those cases. And I anticipate, in the next four weeks,
13 we'll have zero cases past the 60-day deadline. And then my
14 next step will be making sure that sergeants get them done
15 within the deadlines established for them and that
16 lieutenants get them done. And then we know that everything
17 is already done when commanders should have them done.

18 But some of the other things that we've seen is
19 crime reduction. I know that was mentioned earlier. It's
20 important to our community. We have about a 33 percent
21 reduction in auto burglary. We have a 12 percent reduction
22 in auto theft. We have a 12 percent reduction in commercial
23 burglaries. We have a 50 percent increase in traffic stops.
24 So I think that everything is showing us the officer morale
25 is higher. Our crime is being reduced. Our use-of-force

1 investigations are getting cleared quicker and more
2 efficiently.

3 The Academy had 43 cadets start today as part of
4 our recruiting effort. Not only do we have 43 cadets
5 starting today, we also had 15 laterals test this past
6 Saturday that got through the initial testing process. We
7 have 5 laterals already seated. And we're anticipating that
8 our lateral process, based off our work with the Union on
9 collective bargaining, the process is going to enable us to
10 hopefully get a lateral class of at least 40. Our current
11 numbers are 850, approximately. If you add 43 that are in
12 the Academy now plus the 17 on OJT, we're right about 910.
13 Unfortunately, it will take some time to get them as
14 functioning officers out in the field. If we seat another
15 class in the spring of 40 and we seat a class of 40
16 laterals, we're about 880. And I think that's a good
17 direction for us -- I mean, 980. That's a good direction
18 for us to be going. And it shows that we are increasing
19 recruiting efforts.

20 We are getting more people to stay with the
21 compensation package that was offered to the officers. It
22 takes into account the number of years of service. So our
23 most senior officers, who are ready to retire, benefit the
24 most from the package. They get an increased hourly rate
25 over those that are just starting of almost \$3.50. They get

1 a longevity pay for this first year of \$500. So it was a
2 good cooperative effort between the City of Albuquerque and
3 the Union to come up with a plan that we thought would work.
4 Myself and Union President Shaun Willoughby talked about it
5 last week, and we're hopeful that the early signs that we're
6 seeing is that it is going to work and it is going to
7 develop the number of officers that we need.

8 So I want to close in saying that we're
9 addressing the problems with the Albuquerque Police
10 Department as a whole. We're not just looking at the court
11 settlement, we're looking at all aspects because it's
12 important that, as a Department, we're trusted by the
13 community, the community feels they're safe, and that the
14 community feels they have an effective police department and
15 that this court settlement agreement is not a crutch on the
16 police department. I think that when you take all those
17 factors into play, I think it shows that we have a good
18 trend and we're moving in the right directions in a lot of
19 ways.

20 I'll stand for any questions, Your Honor.

21 THE COURT: Chief Medina, you gave me some
22 numbers a moment ago. Of all the numbers we've heard so far
23 this morning, those are the numbers, I think, that people --
24 that really tickle our ears. Those are the ones we want to
25 hear and that is reductions in crime rates. You said some

1 numbers, 33 percent, I didn't write them down. Tell me
2 where those numbers come from and over what period of time
3 they're measured.

4 D.C. MEDINA: Those numbers came from our records
5 management system. What we're trying to do is compare
6 apples to apples. And one of the biggest things that I've
7 asked for from my analysts is to give me comparable data.
8 We don't have UCR data available yet for the year, so it
9 wouldn't be right for us to compare data from other record
10 systems with UCR because they're not --

11 THE COURT: "UCR" means what?

12 D.C. MEDINA: -- comparable. Uniform Crime
13 Report. That's basically the data that's reported to the
14 FBI. But we have historical data systems that we can track
15 information through. And I have a history in property
16 crimes. 2010 and '11, I was the property crimes lieutenant.
17 I ran numbers every day. So one of the things that I asked
18 them to do is I know that we will get an accurate reflection
19 of our numbers if we track the same systems. So we've
20 chosen to track our records management system. And for auto
21 thefts, for example, I wanted to do a double-check that
22 those numbers were close. So I asked them to hand-count the
23 entries of stolen vehicles into NCIC to make sure that we
24 were close to what our records management system was saying.

25 Those numbers, like I said, Your Honor, are

1 coming from our records management system. It's an accurate
2 reflection of the same systems giving numbers. We're
3 tracking the first five months of 2017 to the first five
4 months of 2018 to see if we're making a difference from '17,
5 which were the highest numbers, to 2018. Because of the
6 fact that the numbers are so skewed and they had risen so
7 sharply in 2017, it's really hard for us to use the best
8 practice of tracking three years' worth of numbers because
9 there is going to be no progress in the data because the
10 numbers are so skewed because of the sharp increases that
11 occurred in 2017. So we're using 2017 as a gauge to compare
12 2018 for the numbers.

13 THE COURT: So the first five months of '17
14 versus the first five months of '18. Give me those numbers
15 again. You had a percentage number and you broke them down
16 by particular crime.

17 D.C. MEDINA: Yes. For auto theft, we're right
18 about 12 percent.

19 THE COURT: And these are decreases?

20 D.C. MEDINA: Decreases. For robbery,
21 42 percent. Commercial burglary, 12 percent. Residential
22 burglary, 7 percent. Traffic stops have increased
23 53 percent. Which is good proactive way to measure the
24 morale of our officers.

25 THE COURT: Let me just make sure I wrote them

1 down correctly and heard you. A 12 percent decrease in auto
2 theft.

3 D.C. MEDINA: Yes, sir.

4 THE COURT: A 42 percent in robbery.

5 D.C. MEDINA: Robbery.

6 THE COURT: 12 percent decrease in commercial
7 burglary, 7 percent decrease in residential burglary. And
8 traffic stops are up 53 percent.

9 D.C. MEDINA: Yes, sir. And a 33 percent
10 decrease in auto burglaries.

11 I wasn't joking when I said I was a numbers guy.

12 THE COURT: Those numbers are -- last year's
13 numbers were high, so the fact that they're off that's a
14 good thing, but it's -- you know, over a three-year period
15 it may not be as significant a number. But I can tell you,
16 for my purposes and for purposes of the people that are here
17 today and what you're going to see in the paper tonight,
18 those are the numbers that people care about. They want to
19 see that we're actually -- you're having an impact in the
20 community in terms of actual crime, right?

21 So this is good stuff. And I appreciate that.
22 And to the extent that those numbers are subject to
23 challenge, I'm sure I'll hear from somebody later today
24 about that. But I really do appreciate it.

25 D.C. MEDINA: No, Your Honor. And that -- I'm

1 glad that you're happy with the numbers. And I think that's
2 why, when I gave my presentation this morning, I wanted to
3 cover that.

4 Our response to the problems that the Albuquerque
5 Police Department is facing, when me and Chief spoke when we
6 returned in December, we wanted to make sure that we had a
7 balanced approach and that we realized that we couldn't just
8 focus on one area, that we had to focus on all the areas:
9 Recruiting, crime, community policing, and implementing the
10 court settlement agreement to its fullest within the
11 Department to coming into compliance. And we knew if we
12 didn't move forward in all these areas that we were denying
13 the citizens of Albuquerque the services that they should be
14 getting from a police department.

15 And although I think that we could have just
16 focused on the use of force and maybe had them cleared by
17 this point in time, I'll take the fact that we have about 43
18 cases, 44 cases that are beyond the 60 days, along with all
19 the other good things that are coming out of the police
20 department.

21 THE COURT: Thank you. Thanks very much, Chief.

22 D.C. MEDINA: Thank you, Your Honor.

23 Lt. Lowe? Yes, ma'am.

24 LT. LOWE: Good morning, Judge.

25 THE COURT: Good morning.

1 LT. LOWE: Good morning, Court.

2 My name is Cori Lowe. I'm a lieutenant with the
3 Compliance Bureau. And I'll be presenting, to the Court,
4 Area 2, the Implementation Unit.

5 I know we have the slides, but I'm going to go
6 into a little bit more detail on a couple of things. I'm
7 going to discuss the tasks APD has identified in the
8 Compliance Plan for the development of the Compliance
9 Bureau. I'm going to give an update and the status of each
10 issue.

11 Like Deputy Chief Medina mentioned, when they
12 came on in 2007 -- December of 2017, the administration from
13 both the City and APD agreed with Dr. Ginger's suggestion
14 and created the Compliance Bureau. This bureau is
15 specifically focused on CASA-related activities and
16 progress. We originally had an Inspections Unit, which was
17 trying to do a lot of the Compliance Bureau -- Compliance
18 Plan initiatives; however, those positions were re-purposed
19 within the Compliance Bureau to better utilize our manning
20 and our experience.

21 We have three areas that we want to focus on as a
22 Compliance Bureau, which is oversight, guidance, and
23 accountability. The Compliance Bureau will also be a
24 centralized division for activities surrounding the
25 CASA-related activities. And we want to clear lines of

1 information and communication to assist in the
2 organizational reform, a reform shift across the Department.
3 We want to make sure from the Patrolman, Second Class, who
4 is our probationary officers, all the way up to the Chief of
5 Police fully understand the situation that we're in and why
6 the improvements are being completed.

7 The Compliance Bureau will be responsible for
8 three different areas. I'll go into a little bit more
9 detail here in a second, but one is process development.
10 The second is auditing and assessment functions. And the
11 third one is specifically focusing on Level 1 use-of-force
12 and show-of-force case reviews.

13 And one of the things I wanted the Court to
14 understand is a little bit of how APD is -- the rank is
15 broken down. So within the Compliance Bureau, we have,
16 obviously, a deputy chief of police. And for the Compliance
17 Bureau, it's Deputy Chief of Police Eric Garcia. Underneath
18 the bureau is a division. And for us, it's the Compliance
19 Division, which does have a temporary duty commander
20 assigned, who is Michelle Campbell, who while she is new to
21 this position, she is not new to the CASA, as she has been a
22 project lead on several paragraphs, so she has experience.

23 Within the division, it is broken up into two
24 sections: The Compliance Section and the Performance Review
25 Section, with the lieutenant over each. I am the lieutenant

1 who manages the Compliance Section and has overall oversight
2 of the compliance activities, including this Compliance
3 Plan. Then we have a second lieutenant, who manages the
4 Performance Review Section, who up until officially this
5 last Saturday, was on temporary duty, but now she's
6 permanently assigned. And she is responsible for the
7 oversight of Level 1 use-of-force and show-of-force reviews.

8 Under my section, the Compliance Section, there
9 are two units that have been created. There is the
10 Implementation Unit, with a civilian manager, Jolene Luna,
11 who has over 25 years' experience with the City. And the
12 Performance Metrics Unit, also a civilian manager, Cara
13 Garcia. Cara comes from outside; however, she used to work
14 with APD. She was one of the ones that was identified by
15 Dr. Ginger and his team as doing an effective audit
16 assessment on our TASERs a couple of years ago. So we were
17 lucky enough to bring her back.

18 The Implementation Unit assists with our project
19 leads. Our project leads are sworn personnel that are
20 assigned specific paragraphs within the CASA and are
21 responsible and accountable for getting them into
22 compliance. In the past, APD has lacked formal documented
23 processes, and this team is here now to assist in developing
24 in those processes to work through, identify weaknesses and
25 deficiencies, and then provide feedback to improve the

1 process along the way.

2 Then after that process is developed, then we
3 have the Performance Metrics Unit, who performs audits and
4 assessments. As stated earlier, we -- there's a little bit
5 of a difference between an assessment and an audit. An
6 assessment is more of a reporting. And with that said, we
7 have to do downloads quarterly for our TASERs. We need to
8 make sure that -- and with that, we just pull a report. The
9 next month, we pull a full report. It will let us know who
10 conducted the download, what date they conducted the
11 download. And then we they have deadlines, so if they miss
12 that deadline, we'll know. That's where that assessment
13 comes through.

14 And the audits are more of a comprehensive and
15 detailed approach of looking at TASER as a whole. We're
16 looking if our policies are being done correctly -- or being
17 followed correctly, if our policies are within best
18 practices, and if there's any improvement that we need to
19 make. And if there are any deficiencies identified within
20 that audit process, the Implementation Unit comes back in to
21 assist again. This is creating a cyclical response to the
22 public -- the problem-solving process, to include
23 problem-solving methods that Dr. Ginger brought up earlier,
24 which is goal maps, which is talking about goals,
25 objectives, measurements, analysis, process identification,

1 and product development. So it's really helping us make
2 sure that we're collecting everything that we need from
3 Point A to Point Z with problem-solving.

4 Again, then we have the Performance Review
5 Section. And under that is the Performance Review Unit, led
6 by Lt. Perez, who will serve as an additional assessment
7 function for Level 1 use-of-force and show-of-force cases.
8 Lt. Perez will also be responsible for managing the Force
9 Review Board and its functions. Force Review Board can also
10 be called or addressed as "FRB." And they will also
11 continue and assure that there's recommendations stemming
12 from FRB and from her Level 1 use-of-force and show-of-force
13 reviews to make sure they're correctly routed, addressed
14 accordingly, and assigned those deadlines to make sure that
15 we close that loop.

16 Her team will also identify strengths and
17 weaknesses in the reviews to ensure agency-wide retraining.
18 This is one of the areas I think we're improving upon,
19 training. And we want to make sure that the information
20 that we see, that we identify as deficiencies, and how we
21 correct them are provided to the officers and supervisors
22 actually doing the job.

23 Lt. Perez will speak more on FRB and Area
24 Number 4. I just wanted to give you a little bit of
25 background on the actual Compliance Division. In the

1 Compliance Plan, there were six tasks for this reporting
2 period. APD completed all 100 percent of those tasks on or
3 before their deadlines.

4 The next section that was brought up was our
5 policies development process or Special Operating Procedure,
6 SOP, 3-52. The policy development process took a little bit
7 longer than we anticipated and we missed the original
8 deadline. However, with that said, APD did not just want to
9 push a policy through. We wanted to receive internal and
10 external feedback to thoroughly improve upon the original
11 policy.

12 As part of our policy development process, we
13 have what is called the Office of Policy Analysis, or OPA.
14 OPA serves as a central hub for policy presentation and
15 provides administrative support to policy development
16 processing. We have a civilian SOP liaison who is assigned
17 specifically for policy. And that comes from Point A to
18 publish -- from when it gets revised or developed into where
19 it's being published and revised -- or published and, if it
20 has to have revision, it will come back at a later date.
21 But that's his sole job, because policy is so important to
22 what we expect our officers to do on a daily basis.
23 Although we did meet the deadline -- or missed the deadline
24 we were able to publish it on April 24th of 2018.

25 So there were seven tasks in this specific area

1 because it was so detailed. We did -- as of today, we have
2 completed all seven, so we're 100 percent. However, three
3 out of the seven were completed after the original due date,
4 due to the reasons I stated earlier.

5 Next was to develop and implement a Compliance
6 Division Policy. Being a new division, we have to create a
7 policy from scratch. And APD has researched best practices
8 to identify roles and responsibilities that other law
9 enforcement agencies already have with similar depart --
10 similar divisions. Some of the ones that we looked at were
11 New Orleans, Cleveland, and Seattle PD, all of which are
12 either under a similar settlement agreement or actual
13 consent decree. New Orleans and Seattle have been under
14 theirs for quite a while. And Cleveland and APD are
15 somewhat similar to each other, as far as time. Our goal is
16 not to reinvent the wheel, but to learn from one another.
17 And we've done a lot of information-sharing. For instance,
18 myself and Cdr. Campbell just met with the Cleveland -- a
19 division of Cleveland police this last week to kind of see
20 if we were able to learn anything from their structure.
21 While I do believe our structure is actually very strong,
22 there's always ways to improve it.

23 Another area that we looked at, just so we can
24 make sure that we have best practices, is the International
25 Association of Chiefs of Police, or IACP, website. That

1 website provides for recent articles, other policies that
2 other departments have put up there to publish for open
3 viewing, so we don't have to reach out to the departments
4 individually if it's already there. So based off that
5 research and our organization needs, APD drafted job
6 descriptions for each of the areas that we need to --
7 positions we needed to fill. We came up with roles and
8 responsibilities and then we also came up with an
9 organizational chart.

10 As a division continues to grow, the creation of
11 process flows does as well. So with that said, I created
12 tasks to -- it should have been two separate tasks. It
13 should have been the job descriptions, roles,
14 responsibilities, and organizational charts as one. And
15 then the process flows as their other separate task. So
16 that is something I definitely learned from this Compliance
17 Plan. With that said, I do not consider Task 2 to be
18 complete. We still have lot of process flows to develop,
19 and we're just simply not as far as along as I originally
20 hoped to be.

21 However, with that said, we have created several,
22 including just policy development and revision, just how to
23 get a policy through our process. In itself, now, we have a
24 process flow, data requests and submissions to and from the
25 monitoring team, and how we're going to work with special

1 orders. As you heard, Cdr. Middleton named three right off
2 the bat. So special orders are an integral part of our
3 operations and we want to make sure our officers know how to
4 go about and how they get approved.

5 Therefore, there was two tasks during this
6 reporting period. We completed one, so we're 50 percent.
7 And I gave Task 2 a new deadline of July 13th of 2018 so we
8 can get as many process flows up and running before I
9 consider it a completed task.

10 I stated this previously when we discussed the
11 development of a Compliance Bureau; however, we did have a
12 task that stated to create a section devoted to use-of-force
13 oversight. This is the Performance Review Unit introduced
14 earlier. And they have oversight and they will also review
15 and identify deficiencies in Level 1 use-of-force cases.
16 They will develop a process to conduct a detailed
17 use-of-force investigation failure analysis to determine the
18 cause of the failure, with the goal of determining
19 corrective actions. This is to ensure that we're covering
20 our -- making sure that not only do we identify it, but we
21 find a way to correct that deficiency. And if it goes
22 agency-wide, we need to go through that entire training
23 process. We do need to identify if it's just one particular
24 officer, supervisor that is having an issue or if it's
25 something that we can see pattern and trends that take over

1 Department-wide. If is it Department-wide, that's where
2 this training comes in. And we want to make sure everyone
3 gets a fair share of that.

4 They will also develop and provide
5 recommendations for policy, training, supervision, tactics,
6 and equipment. This is very similar to the Force Review
7 Board. And there is really no reason to make it different
8 because the idea behind the review should be the same. And
9 that also includes remediation, responses, and disciplinary
10 actions, if each failure is identified and not addressed.

11 Again, the section lieutenant for the Performance
12 Review Unit is Lt. Perez. And she will also manage the
13 Force Review Board and work with the Internal Affairs Force
14 Division, Cdr. Middleton and his team, on developing a
15 training plan for her personnel before they get going. And
16 that's strictly because Cdr. Middleton's team is a little
17 bit ahead of her development. And once we get that
18 developed, we can use -- again, not reinventing the wheel.
19 If they've already created something, we go ahead and use
20 the same platform.

21 So for this reporting period, there were two
22 tasks that needed to be completed. We are zero percent for
23 this task completion. However, with that said, for the
24 entire Compliance Plan, that's actually four tasks listed
25 under there. We moved out the deadlines for all of them to

1 make sure that we thoroughly and effectively developed this
2 section the best way that we can. But just keep in mind
3 that not any of the deadlines that we propose go beyond
4 July 31st of 2018.

5 The last section for the Compliance Bureau was to
6 develop a process to measure progress for the Compliance
7 Plan. APD did extensive research on project and task
8 management tools that I wanted to make sure are
9 user-friendly and that will assist with compliance
10 oversight. And what I mean by that is I wanted -- I wanted
11 our project leads to be able to enter something, a task,
12 give themselves -- if we've given them a deadline, they have
13 it already, but they can also develop their own deadlines if
14 they create subtasks within the original task given. So
15 they can monitor their own progress.

16 And then there's my -- my level, which is
17 mid-manager level, where we're able to see exactly where
18 they are with the compliance, but we're a little bit more
19 specific. But then I also want the admin -- the command
20 staff, the City administration, the monitoring team, to be
21 able to have a compliance oversight like an umbrella, so
22 they can really take a look and see where we are on any
23 given day. We really believe in transparency for this
24 Department. There's really no reason to keep anything not
25 known. And I want that to be very open and to make sure

1 that we have a good oversight plan in place, so in case we
2 miss anything, we have a way to address it.

3 We have identified one platform that meets our
4 needs at multiple levels. And we're just simply in the
5 procurement stage, so we're just waiting for that to be
6 purchased. However, just, I want to make sure that the
7 Court knows that, in the meantime, we have been measuring
8 progress, just not the most efficient way. We have been
9 manually been using Gantt Charts, Tableau, calendars, and
10 spreadsheets to measure our performance.

11 During this reporting period, there were seven
12 tasks that we needed to complete. We completed six of those
13 tasks, so we're at 86 percent for this section. The one
14 task we missed was the one above, which is where we're
15 actually purchasing the project management tool; however,
16 we're just pending the purchasing process.

17 And that is it for my first, initial one, Judge.
18 Do you have any questions for me?

19 THE COURT: I don't think so, Lieutenant. I'm --
20 I just think it's worthy of stepping back and noting that
21 we've been at this a long time, but nobody ever even
22 suggested a Compliance Bureau until six months ago. I mean,
23 and you-all have stood this thing up and have made some
24 progress, obviously, as you've described. And that's
25 important, because this is something that other cities with

1 consent decrees have used and have found helpful to add to
2 transparency, to add to that sense that community policing
3 is being achieved.

4 So I think it's commendable that the new
5 administration jumped in with both feet and stood this up.
6 I'm proud of that and the progress you've made. Thank you.

7 LT. LOWE: Thank you, sir.

8 THE COURT: We've got Commander Sullivan on the
9 Academy.

10 CDR. SULLIVAN: Good morning, Your Honor.

11 THE COURT: Good morning, Commander.

12 CDR. SULLIVAN: My name is John Sullivan. I'm
13 the Director of Training for the Albuquerque Police
14 Department. I am here this morning to discuss with you Area
15 3 of the Compliance Plan, Operations of the Academy. As you
16 can see, we've also provided the slides to address this.

17 The first thing was to address the staffing
18 deficiencies within the Academy and create a comprehensive
19 training unit devoted to the seven-step process. This was
20 outlined prior to my arrival at the Academy in several of
21 the IMRs and special reports from the monitoring team.

22 (Discussion off the record.)

23 When I took over the Academy, I completed a
24 staffing study on February 18th and submitted that through
25 the chain of command on the 25th. And I'm happy to say,

1 in May, we began receiving some of that staffing. I was
2 given a Comprehensive Training Unit Manager and a
3 Specialist, both civilian positions. An additional
4 specialist position is in the queue, I'm being told, with
5 the City. I should have that person hired sometime this
6 week or next week. And on June 1st, they actually created
7 an opening for a sworn lieutenant, who will oversee all of
8 my compliance efforts at the Academy, to include the
9 seven-step process and advanced training.

10 So this is a big move. This is a huge step
11 forward in the Academy. It's happened relatively quickly,
12 so I'm very pleased to say we are making significant
13 progress as it comes to staffing the Academy. There's more
14 to be done, and I do have assurance from the leadership with
15 APD and the City that I'm going to receive those staff, so I
16 have no doubt that that's going to happen at this point.

17 The next one was to develop a process to
18 determine the transfer of knowledge. Again, upon taking
19 over the Academy, I realized that after reading some of the
20 IMRs and some of the special reports from Dr. Ginger's team
21 that they were less than impressed when they looked at the
22 testing of officers coming in to do advanced training on not
23 just CASA-related projects, but all of our testing. They
24 found it interesting that everybody received a 95 percent or
25 higher. And when I looked at that, I found it kind of

1 interesting, too.

2 And being a police officer now for almost 20
3 years with the Albuquerque Police Department, I knew in my
4 mind exactly why it was happening; however, I chose to
5 create a completed staff work to address that issue. I did
6 some research, looked at some of the best practices
7 nation-wide and found out what I think we all knew already,
8 but the Academy wasn't doing testing correctly. We weren't
9 doing it the way it needed to be done to show the accurate
10 and adequate transfer of knowledge. We were doing the
11 good-ol'-boy testing. The instructor would say, "This could
12 be something you might see later," and everybody was allowed
13 to kind of sit there and do the testing with each other and
14 a group test environment took place.

15 After completing my complete staff work, I'm
16 happy to say, with the support of the Chief and this Police
17 Department, that doesn't happen at this Academy anymore.
18 I've implemented several changes. The first one being, it's
19 always been 70 percent and you're considered passing. If
20 you took a course at the Academy and you took a test, if you
21 got 70 percent, you were considered passing and you had
22 shown that you had sufficiently understood that information.
23 I changed that to 80 percent; specifically, as it pertains
24 to CASA-related and compliance issues. I think it's
25 important, especially moving forward with the community and

1 with this Department, that these officers don't just show a
2 70 percent knowledge. I think they should be able to show
3 at least an 80 percent knowledge of the material.

4 I've seen -- like I said, I've been here from the
5 old administration. I know that a lot of officers on the
6 street didn't understand the use of force, they didn't
7 understand the training. They didn't understand the CASA or
8 the process. So it's important, it's my job to make sure
9 that they understand that. And they're not going to leave
10 any training session with the Academy without at least
11 getting an 80 percent on my tests.

12 And my tests are going to be a little different,
13 too. From now on, after you take a training at the Academy,
14 you'll be required to leave the facility to take the test
15 electronically. The test questions will come from a mixed
16 bag of test questions, selected randomly. So for example,
17 if you take the training and you log onto your computer, the
18 next day, to take the test, you'll get a different set of
19 questions from your partner who may have taken the exact,
20 same training with you.

21 All my questions will be vetted to make sure
22 they're applicable and they -- they apply the knowledge
23 transfer of the subject matter, but this person may not get
24 the exact, same questions the next person gets. So nobody
25 can say, "The answer to Number 1 is 'C'," or if they do,

1 they might get the answer wrong.

2 And then, finally, one of the things we added is
3 not just written testing. I think it's very important,
4 especially when I was completing my staff work and doing the
5 research around the country, the scenario -- graded
6 scenarios is another really good way of knowledge transfer.
7 I can't just -- not everything is paper, classroom,
8 especially when it comes to law enforcement. So these
9 officers, with this new Use-of-Force Policy and the Suite
10 that we're all working on right now, when they go to be
11 tested and trained on that, they'll also have to show
12 physical proficiency in it, with reality-based scenario
13 training. So it won't just be go through the training, you
14 made some mistakes, but go along your way. Even if you make
15 mistakes, you're going to be -- you're going to be
16 considered a fail and you're going to have to do some
17 remedial-type training. If you fail any of the tests more
18 than once -- more than twice, I'm sorry, you'll have to go
19 back to Academy and you'll have to get some remedial
20 training on that.

21 So as a part of my seven-step process, which I'll
22 talk about next, the knowledge transfer, the testing
23 element, is crucial. And we can no longer go through the
24 motions of just saying, "Well, they got the training, they
25 must know it." It's my job, and our job as the Academy, to

1 determine that we have some process to ensure that they do
2 know it and that they're applying it, which is a different
3 story; I won't waste your time with that. But I -- they're
4 going to have that knowledge transfer. If they don't, we're
5 going to bring them back and we're going to make sure they
6 understand it.

7 The next task that I was asked to do with the
8 Compliance Plan was develop a modified Citizens Police
9 Academy, specifically for the members of the Police
10 Oversight, the CPOA, the Citizens Police Oversight, and the
11 community -- Citizen Police Councils. We did that. And the
12 last weekend of February and the first weekend of March,
13 several of the members in the court right now were in the
14 class. I am -- will be very honest, and I'm sure other
15 people will talk to you about it, a lot of concerns were
16 brought up during the class. And they were brought to my
17 attention throughout the two weekends. The concerns were so
18 important and pressing, in my opinion, that we actually,
19 with the help of Deputy Chief Garcia, called a meeting the
20 week after the modified Citizen Police Academy. And I
21 invited the heads of the Police Oversight Board, the CPOA.
22 The U.S. Attorney's Office was there. Several folks were
23 there who were in the class, and I wanted hear firsthand
24 because I wasn't in the training, myself, obviously, what
25 was wrong and what they didn't like about the training. And

1 we sat in that for about an hour, and they went over -- it
2 all centered, basically, around the same issue, on one
3 particular trainer didn't deliver an appropriate
4 presentation on many levels and the content of the
5 presentation he delivered was inappropriate on many levels.

6 And that was expressed to me and I was very
7 pleased that they gave me that feedback because I
8 immediately went back to work and went to fixing it. I met
9 with my staff, to include the supervisor of that trainer and
10 that trainer, discussed the issues. I reviewed the actual
11 content of the course, made several significant changes
12 because I concurred with what I'd heard from the community
13 when they told me about it. Upon reviewing it, they were
14 right that we missed the mark on it. And that's -- that's
15 not okay, but it's okay for us to go fix it. And that was
16 my number one goal.

17 So I spent a few weeks working on the modified
18 plan, on that training. And that trainer still works for
19 me. He's been moved out of the use-of-force training and
20 he's moved into a different area. It's tough. We're all
21 fighting with resources, and I -- you know, he's a good
22 trainer. He's been around for a long time. I think he
23 missed the mark on that day. And he may miss the mark for
24 what we are trying to accomplish in this room, so I'm
25 transitioning to somebody who may hit that understanding a

1 little bit better; however, I didn't want to throw out the
2 baby with the bath water, so to speak, so I've watched that
3 trainer teach another class a few weeks later to make sure
4 that he actually understands what I've told him and taught
5 him about how to present, and I'm proud to say he did. He's
6 been on longer than I have. He's been an officer -- so you
7 can teach an old dog new tricks, apparently.

8 He did great, but I'm not going to just sit on
9 that. That's not enough. I'm still going forward with a
10 different trainer and a whole different curriculum. So I
11 addressed both of those issues and I actually went in person
12 to the Police Oversight Board and explained to them what had
13 been done and the progress we've made, and I invited any of
14 them to come to the next training. And I think a few of
15 them will take me up on that. So I think we've had a good
16 collaboration since then.

17 We did do a survey to -- part of the seven-step
18 process is a revision. So I need to get surveys on the
19 training and I need to revise it, which is -- basically
20 encompasses what I've been talking to you about for the last
21 couple of minutes. So we did complete a survey of this
22 modified CPA. And I did write up an analysis of that, which
23 is basically a summary of what I told you just now this
24 morning. How we're going to change the lesson plan, we're
25 going to change instructors, and we're going to change the

1 course content a little bit for the next one. And we're
2 hoping to do another modified CPA in the beginning of 2019.

3 Finally, I was tasked with developing our
4 comprehensive training plan, which is basically the
5 seven-step model. I got the process from the New Jersey
6 folks. There's no secret that Dr. Ginger's team has got a
7 lot of New Jersey folks on it. And that's great because
8 they've been through this process before. The technical
9 assistance that the doctor talked about is, for us and for
10 me in the Academy environment, significantly more than he
11 even explained. He doesn't give his team enough credit for
12 the work that they've done with us. I can pick up a phone
13 and call anybody from the monitoring team any time of day,
14 realizing they're two hours ahead of me, and they still pick
15 up the phone. The DOJ Ryals has been working with me a lot.
16 We've had a significant amount of help in developing this.

17 We have developed a seven-step process. We have
18 developed a training plan that is been reviewed and approved
19 by the monitoring team. It is in place. So when the policy
20 suite comes up with the use of force or any of the other
21 CASA-related trainings, it will follow the comprehensive
22 seven-step training plan and will be implemented as such.
23 It's a big move for the Academy. I know they've been
24 working on it for quite a while. And I'm happy to say it's
25 done and actually been approved and we will be going forward

1 with it.

2 So that's what I have to talk to you about as it
3 pertains to the Compliance Plan. I understand you may have
4 more questions, since I'm the director of training, so I
5 stand for any questions based on that or anything else you
6 have.

7 THE COURT: I don't have any additional
8 questions, thank you.

9 Folks, I think we're going to take a break.
10 We've been at it about an hour and a half. We'll be ten
11 minutes and we'll be back. Ten minutes.

12 (A recess was taken.)

13 We're going to hear from Lt. Perez.

14 LT. PEREZ: Good morning, Your Honor, and to
15 Dr. Ginger and to all of the parties present.

16 I am Lt. Jen Perez. And as Lt. Lowe stated, I am
17 the lieutenant of the newly created Performance Review
18 Section. One of my responsibilities is to serve as the
19 administrative lieutenant for the Force Review Board, also
20 known as the FRB. And today I will provide a brief review
21 of where we are now with the Force Review Board.

22 The format of the new FRB will further define
23 roles, responsibilities, and guidelines for FRB members.
24 The FRB will continue to review use-of-force investigations,
25 tactical activations, and statistics regarding use-of-force

1 trends. The format of the FRB will promote efficiency and
2 ensure officers' use of force are in compliance with
3 Department policy and constitutional policing.

4 A curriculum to train FRB members was submitted
5 on May 3rd of 2018. It was resubmitted May 25th of 2018
6 and is pending approval. Special Order 18-59 was published
7 May 21st 2018. This special order explains the new format
8 for both voting board members and non-voting members and the
9 procedure for conducting FRB meetings once FRB resumes.

10 Because tactical reviews, prior to January 1st,
11 2018, that involved the deployment of chemical munitions
12 and/or a noise flash diversionary device, also known as
13 NFDDs, were not considered a use of force, they will be
14 reviewed under the old construct; however, a munitions
15 deployment review sheet will be completed as a course of
16 business documentation and attached to each review. This
17 document will indicate that we acknowledge that it is
18 considered best practice to document and investigate
19 chemical munition deployments, NFDDs, as a use of force.
20 Moving way forward, future deployments will be held to this
21 standard.

22 The FRB Standard Operating Procedure was
23 submitted to the Office of Policy Analysis on May 14th,
24 2018, and is awaiting approval and comments from the
25 stakeholders.

1 And I'm happy to respond to any questions, sir.

2 THE COURT: Well, you said you'd be brief and...

3 LT. PEREZ: To the point, sir.

4 THE COURT: You were. And I appreciate that. I
5 don't have any questions. I'm sure we'll hear otherwise
6 about how this is being perceived --

7 LT. PEREZ: Yes, sir.

8 THE COURT: -- in the public, but thank you.

9 LT. PEREZ: Thank you, sir.

10 THE COURT: Thank you very much.

11 And Lt. Lowe, we're going to hear from you again.

12 LT. LOWE: Yes, Your Honor. Good morning again,
13 Your Honor. Just so everyone -- in case there's anyone new
14 in the courtroom, I'm Lt. Cori Lowe of the Compliance Bureau
15 and I'll be presenting on Area 5, to develop a training plan
16 for the Internal Affairs Force personnel. APD delivered
17 their first round of use-of-force backlog training that
18 Cdr. Middleton was talking about earlier in his presentation
19 to their personnel on April 30, to May 3, 2018. During that
20 time -- or after that time, APD learned from that training
21 the identified areas of improvement and are revising the
22 comprehensive training plan for their second revision. That
23 second revision will be delivered June 26th through
24 27th of 2018. There will also be a development of
25 criminal and administration investigations training upon

1 approval of the Use-of-Force Policy Suite. Just keep in
2 mind that there are already three fully explained criminal
3 investigators that we've already had from our previous Force
4 Investigation Team.

5 Three people, to include one lieutenant from
6 Internal Affairs, were sent the week of June 4th through
7 the 8th, 2018, to the Institute of Policy Technology and
8 Management, or IPTM, for training. What this will do, they
9 will -- this will allow us to develop misconduct training
10 based on what the -- the information they brought back. For
11 this area, for this one area there was one task for this
12 reporting period. It is 100 percent complete, as they did
13 provide their initial first round use-of-force backlog
14 training.

15 There was only one task and I just wanted to make
16 sure that we brought it up, Judge, if there is any
17 questions.

18 THE COURT: Okay. The slide that's up is
19 training development, but there's a second slide I'm looking
20 at. There you go.

21 LT. LOWE: Yes. Okay. There it is. There's
22 actually an error at the very bottom. They did complete --
23 there was only one task. For some reason, it says that
24 there was two of four components there. There is not.
25 There is just one task for that section.

1 And again, they're just working on developing
2 misconduct training from the training that they got -- that
3 they received from IPTM.

4 THE COURT: All right. So thank you.

5 LT. LOWE: You're welcome.

6 THE COURT: Let's talk about the amici concerns.

7 LT. LOWE: The next section is amici concerns.
8 The first section was to evaluate the McClendon subclass
9 concerns. The City and the McClendon subclass worked
10 together to revise policies related to the lawsuit, all of
11 which have been published, with the exception of one, due to
12 a pending monitor approval, but it will be published soon.
13 The rest of those policies were published on April 26, 2018.

14 The second task of that area was APD was to
15 provide ECIT recruitment and a training plan to the
16 McClendon subclass attorneys. And they did so on May 1st,
17 2018. And as stated earlier by Deputy Chief Garcia, APD and
18 the amici have been -- have started their update meetings
19 every six weeks. For that section, that is -- I wanted to
20 do a follow-up update on the training plan development for
21 the McClendon subclass policies that were published.

22 For Part 1, 2-80 and training materials, that was
23 submitted on May 22nd, 2018. They received commentary on
24 May 31st. They resubmitted the revisions on May 31st,
25 as well. And they're awaiting additional commentary and

1 final approval of the lesson plan and training materials.
2 The Academy has done partial filming of the training video
3 that was done this last week.

4 Lesson Plan Part 2 is SOP 1-40 and 2-71 and their
5 training materials, which were submitted on June 6, 2018,
6 and waiting to receive commentary.

7 Lesson -- I'm sorry, Part 3 is Lesson Plan SOP
8 4-25. And the lesson plan is still in development.

9 And Part 4 is 2-19, which is awaiting approval
10 for final SOP revisions.

11 That's a pretty quick update for the amici
12 concerns for the -- as far as the McClendon, and the next
13 section will be for CPOA and POB members.

14 THE COURT: Yes, ma'am.

15 LT. LOWE: The task was to provide CPOA and POB
16 members evidence.com, which is a database where we keep a
17 lot of our evidence, such the name, access for case
18 investigations. And APD did develop documented parameters
19 to allow video access for CPOA and POB members into
20 evidence.com for the completion of their case reviews and
21 their investigations.

22 The last task in there for the amici is to
23 provide a dedicated administrative support personnel to the
24 Community Policing Council, or the CPC. Chris Sylvan did
25 provide a job description, which was submitted for approval

1 for a full-time administrative assistant responsible for CPC
2 minutes, agendas, recommendations, documentations, and
3 updating the CPC websites. So there were two tasks out of
4 that specific area, both of which were completed within
5 their original deadline date.

6 And the very last thing I wanted to cover is just
7 the Compliance Plan as a whole. I wanted to update everyone
8 with the update. So there was 91 tasks throughout the
9 Compliance Plan. 82 deadlines have passed as of May 31,
10 2018. 79.27 percent, or 65 out of 82, tasks were completed
11 on or before the original deadline. 13.41 percent, or 11
12 out of 82, passed the original deadline, but have since been
13 completed. And 7.32, or 6 out of 82, were not complete.
14 These tasks have been addressed above and the new deadlines
15 provided.

16 I just wanted to thank you for your time, Judge.
17 And we look forward to continuing with APD transformation.
18 If you have any more questions for me, I'd be more than
19 happy to answer.

20 THE COURT: Thank you, Lieutenant. I don't have
21 any further questions.

22 LT. LOWE: Thank you, sir.

23 THE COURT: Mr. Killebrew, I'll hear from DOJ
24 senior counsel, and then, Mr. Mowrer, on your view of the
25 status reports.

1 MR. KILLEBREW: Thank you, Your Honor. Paul
2 Killebrew on behalf of the United States.

3 We're halfway through the reset period that we
4 talked about beginning back in November. And it's a good
5 time to start thinking about what we've been able to
6 accomplish, which we've heard a lot of details about
7 already. And we need to think about what lies ahead for the
8 remainder of this reset period.

9 You've heard a lot about the technical assistance
10 provided and the City's progress on implementing the
11 Compliance Plan. So I just wanted to take a few minutes to
12 talk about where I think we need to go over the next few
13 months and where I think the most critical needs are. So
14 I'm going to address two questions.

15 The first question is where could the City stand
16 to gain the most from the monitor's technical assistance for
17 the rest of this reset period. And if I -- the second
18 question is, if I were the City, what would be keeping me up
19 at night, as we get to the end of this reset period.

20 So in terms technical assistance, I think one of
21 most effective areas where we've seen technical assistance
22 has been on the development of training. The monitor has
23 helped the APD Academy establish the scaffolding that it
24 needs to create training programs that are effective, that
25 meet officers' needs, and that comply with the

1 court-approved settlement agreement. So we're very pleased
2 with the progress that's been made at the Academy on those
3 things, but the next big training piece that has to be
4 delivered is use-of-force training, which is the most
5 critical training that's required under the CASA.

6 So we're delighted that APD has a solid training
7 development process for creating use-of-force training, but
8 we would commend them to seek the technical assistance of
9 the monitor on the content of that training. We anticipate
10 working closely with APD on that training, but we -- in my
11 opinion -- in our opinion, this is an area where the
12 monitor's technical assistance can really leverage big
13 improvements on how APD complies with the CASA.

14 So that's point Number 1. Point Number 2, what
15 would keep me up at night, if I were the City: First and
16 foremost on that list has to be the backlog. We've heard a
17 lot about the use-of-force investigation backlog today and
18 the progress that's made in setting up systems to address
19 it, but I just want to take a step back and talk about why
20 this is the headline issue.

21 When the United States investigated APD, we found
22 a couple of things about use of force: Number 1, we found
23 trends of unconstitutional uses of force. The numbers from
24 our findings were that about one in two times that officers
25 used deadly force and someone died that the force was

1 unconstitutional; and that, when officers used other kinds
2 of force, one in three times, it was unconstitutional. And
3 it wasn't just that officers were out there using force
4 unconstitutionally, it was that when those issues were
5 reviewed by the chain of command, the chain of command
6 didn't catch it.

7 The impact that it has when someone uses force
8 that doesn't comply with policy or the Constitution and then
9 the agency signs off on it, that effectively changes the
10 standard for force within the agency. So the troubling
11 thing to us about the backlog is that you have a bunch of
12 incidents that have already happened and they have gone past
13 the deadline for which APD can impose discipline. After it
14 goes to 120 days, they're no longer able to impose
15 discipline under the collective bargaining agreement and
16 their own policy. So you have the potential, then, for
17 unconstitutional uses of force that are going unaddressed by
18 the agency. This is, in our opinion, why clearing the
19 backlog has to be a top priority.

20 I will be honest with you, Your Honor, the
21 numbers that we have seen on numbers of cases in the backlog
22 have varied over time. Today's presentation gave me the
23 most concrete sense of the size of the backlog and the pace
24 of closing it. And we'll be working with the City to
25 continue getting updated numbers. To me, the most important

1 numbers are, first of all, how many cases are currently
2 after the 120-day deadline. And then I want to know, in the
3 last week or in the last two weeks, how many cases have been
4 added to that number and how many cases have been subtracted
5 from that number. What you would hope to see is that the
6 overall number would go down over time, that the number of
7 cases entering the backlog is going down, and that the
8 number of cases leaving it is going up. So that's
9 information that we're going to be looking for from APD, so
10 that we're getting regular updates on the pace of closing
11 the backlog.

12 We first knew about the backlog last fall. And
13 I'll be honest again, Your Honor, we would have liked to
14 have seen faster progress in resolving the backlog. I think
15 the reason we haven't seen faster progress is that APD has
16 gone back to first principles in a number of areas, and one
17 of them is in designing processes like those for closing the
18 backlog. So the process that they've spelled out today and
19 in their status report is a good process and it reflects a
20 lot of thought, and I'm hopeful that it will close the
21 backlog expeditiously. And that's what we will be looking
22 for.

23 The next thing that would keep me up at night, if
24 I were APD, is fully standing up the implementation unit,
25 the Compliance Division. They have made a lot of progress

1 in creating a unit that is truly tracking progress within
2 APD. And as it stands, I'm not sure that they have all the
3 personnel that they need. So we'll be looking for them to
4 continue hiring up for all the positions that need to be
5 filled within that unit. I think what we're looking for is
6 that we don't want the Compliance Unit to be like the Maytag
7 repairman that just sits there and waits for the call. You
8 really want them out there, looking for issues within the
9 Department. You want them designing audits that will find
10 things that they're not seeing. And right now, that is the
11 mentality that they have, but I don't know that they have
12 all of the personnel required to be doing that kind of work.

13 The other thing we want to work with APD on is
14 how do we make the Compliance Plan process and progress more
15 transparent to the community. We've got a lot of
16 information today about progress and implementing the
17 Compliance Plan and there was information in the City status
18 report, but I think this is an area that is of significant
19 interest to the public. And the overall goal for the
20 Compliance Unit is that it becomes the unit within APD that
21 is monitoring the agency; that the agency is then doing
22 self-monitoring. That monitoring won't really work unless
23 there's some accountability for when they don't meet goals.
24 And this kind of accountability starts with the public. The
25 public is going to be the one that's really watching to see

1 whether APD is doing what it sets out to do. So we'd like
2 to work with the City on how we can make the City's progress
3 in implementing the Compliance Plan a little easier for the
4 public to understand and maybe even providing more frequent
5 information to the public about the City's progress.

6 And then the third area for the City that, I
7 think, deserves some focus going forward is at the training
8 Academy. Like I said earlier, the use-of-force training is
9 the next big piece that's coming along. And we'll be
10 looking closely to see how the Academy is developing that
11 training and what their products look like.

12 They also have to deliver that training.
13 Commander Sullivan spoke about a trainer who has been
14 providing use-of-force training for the City for a number of
15 years, who is not going to be involved in that in the
16 future. We are going to be very interested to see who will
17 be delivering use-of-force training. We believe that we
18 need to have a trainer who has fully bought into the goals
19 that we all share here. So we will be looking for good,
20 quality training that really gets to the root of the
21 problem.

22 Mr. Ryals is going to speak in a little bit about
23 the Use-of-Force Policies development process. And as I
24 mentioned earlier, this is another area where APD has gone
25 back to first principles and thought what is not a policy

1 that complies with the CASA, but what's a policy that really
2 expresses the values of this police department. And we
3 expect to see the same sort of thinking when APD develops
4 its use-of-force training.

5 So those are where I would focus. I want to
6 thank the Court for coming to Albuquerque and allowing us to
7 have a public hearing at this stage. We don't have a
8 monitoring report for this period, as we all agreed we
9 wouldn't. So in some sense, we have less information than
10 we normally would, which I think makes it all the more
11 important to have proceedings like today's where we can
12 present for the community, for the parties, for the Court,
13 the snapshot of where things stand.

14 And with that, Your Honor, I'm happy to answer
15 any questions.

16 THE COURT: Mr. Killebrew, thank you. I think
17 you did a nice job of focusing where we are. We did take a
18 step back. We decided to spend a considerable period of
19 time doing technical assistance, and we've heard a lot about
20 that this morning. You know, there's not a lot sexy about
21 technical assistance, as it turns out. And we've heard a
22 lot about numbers and -- but the big picture is -- I just
23 asked my law clerk a moment ago if he knew the movie *Jerry*
24 *Maguire*. And he didn't, you know. And that's a whole
25 'nother issue, you know. He doesn't get any of my

1 allusions, but -- so he said, "Well, what was it about?"

2 I said, "Well, it was a sports agent, Tom
3 Cruise," for those of you that are as young as my law clerk,
4 "and Cuba Gooding, Jr., who was the super athlete that he
5 represented. And Maguire would call and say, you know, a
6 lot of stuff, and Cuba would just stop him finally and
7 say --" does everybody remember what he'd say?

8 MR. KILLEBREW: "Show me the money."

9 THE COURT: "Show me the money." And that's,
10 ultimately, what we have to be able do to the community.
11 And I know you know that, but I appreciated your refocusing
12 us on that for a moment. We did -- we don't have a report,
13 we don't have -- you know, and we all agreed that that's
14 what we needed to do was step back, reset, do this technical
15 assistance, but -- but the clock's ticking, and that backlog
16 is still there. And the community has the right to know
17 what we're doing. And so I appreciate the reset and the
18 refocus and let's -- let's go to Mr. Mowrer.

19 MR. KILLEBREW: Thank you, Your Honor.

20 THE COURT: Yes, sir. Thank you.

21 MR. MOWRER: Good morning, Your Honor. Good
22 morning, City.

23 THE COURT: Mr. Mowrer, good morning to you.

24 MR. MOWRER: Good morning to everyone present.
25 My name is Fred Mowrer. I'm here on behalf of the

1 Albuquerque Police Officers Association. I'll keep it very
2 brief, Your Honor.

3 As I commented when this process started several
4 years ago, the speed with which we were moving forward, as I
5 called it, a "train," was, at that time, mind boggling.
6 Your Honor, I don't think from what you've heard described
7 today with the changes that are being proposed -- and I,
8 specifically, want to thank the City of Albuquerque and the
9 staff of the Albuquerque Police Department for the amount of
10 effort and work that has gone into a number of subject
11 matter that have been discussed today. I won't go through
12 them. The Court was paying attention. The effort that has
13 been put forward, the number of hours that have been
14 expended is mind-boggling. The pace with which this is
15 moving forward, as the Court has heard, is still a
16 fast-moving train. From the perspective of the people in
17 the street, it is hard to keep track of. It's hard to stay
18 aware of all of the changes that are ongoing. But I do want
19 to applaud the City for stepping forward and making it
20 possible through the last contract negotiation to help
21 change some of the environment with recruiting. The
22 numbers, as the Court was interested in, are low. We need
23 to grow this Department to be successful. And I think that
24 as we move forward, the APOA is recognizing the pace with
25 which we are moving and hoping that all parties are being

1 patient.

2 As mentioned by the Department of Justice, a
3 number of issues exist. Remember a lot of the issues being
4 discussed are from several years ago that these -- as an
5 example, the backlog problem is being addressed, obviously,
6 and that there is a process in place where numbers are now
7 being looked at. Keeping in mind some of this backlog was
8 because the people who centered in the backlog, supervisors,
9 were busy in the field taking care of their troops. And in
10 some instances, didn't put the direction into reviewing some
11 of this use of force. It wasn't because it was deliberately
12 being ignored. It was just a matter of practicality. When
13 you don't have enough people, it's hard to do all that's
14 being required.

15 That is changing, as you heard the numbers today.
16 Part of that's being addressed by the City and the new
17 contract and the new money being infused. So it is the
18 APOA's hope that with respect to this restructuring and all
19 these new divisions, the Compliance Division, the
20 Use-of-Force sections within Internal Affairs, that the
21 Court will see these changes. And I just urge everyone
22 present here to be patient. It takes time to get all this
23 done so it's done appropriately.

24 Thank you, Your Honor.

25 THE COURT: Mr. Mowrer, thank you.

1 And I've never been accused of being a patient
2 man. I pray for patience every once in a while. Well, I
3 stopped praying for patience because God will try your
4 patience if you ask for it. So I'm -- I'm not a patient
5 man, but we all need to look favorably upon, I think, the
6 effort of the City and all of the -- I said a moment ago,
7 standing up a whole new bureau within six months' time and
8 we're here today to talk about it functioning and it
9 accomplishing things, that's crazy in terms of a time line.

10 MR. MOWRER: It's mind boggling.

11 THE COURT: It is. And so all of that counsels
12 patience, but you know the big picture, we've been at it a
13 while and there have been some setbacks, so I'm hoping that
14 the message is progress with patience. You know, maybe
15 that's where we need to be today.

16 MR. MOWRER: That's what I urge, Your Honor,
17 because as I've said, the speed which we are moving in some
18 instances, especially with regards to this Compliance
19 Division and all the tasks and employees that have been --
20 are being hired or in process is almost, in light of the six
21 months of which this has been done, I don't know how they've
22 done it. Once again, I applaud the staff for all the hard
23 work that they've done because it is -- it's pretty much, as
24 I indicated, mind boggling.

25 Thank you, Your Honor.

1 THE COURT: And there's -- the officer in the
2 street -- we developed a Use-of-Force Policy and we trained
3 on that policy and now we're...

4 MR. MOWRER: Doing it again.

5 THE COURT: ...doing it again. And you talk
6 about minds being boggled, that's being whipsawed --

7 MR. MOWRER: Right.

8 THE COURT: -- so we have to have that in mind as
9 well, I think. So thank you.

10 MR. MOWRER: Thank you, Your Honor.

11 THE COURT: We're going to hear from the amici
12 now.

13 APD Forward, Mr. -- is it *hay-del*?

14 MR. HAIDLE: *High-del*.

15 THE COURT: Haidle, excuse me. And Ms. Liu?

16 MS. LIU: Yes, Your Honor. Thank you.

17 Good morning, Your Honor, my name is Alice Liu
18 McCoy from Disability Rights New Mexico. I'm speaking on
19 APD Forward this morning with Mr. Paul Haidle from the ACLU
20 of New Mexico. We would like to begin on a positive note
21 and recognize the City and APD's promising new direction and
22 willingness to consider critical feedback.

23 On May 22nd, the Compliance Bureau, led by
24 Deputy Chief Eric Garcia, and the Department of Justice met
25 with APD Forward to discuss APD's progress. The members of

1 APD Forward who attended the meeting were encouraged by the
2 cooperative tenor of the meeting, particularly in contrast
3 with similar meetings under the previous administration.
4 Mr. Haidle will discuss some of the APD Forward's specific
5 concerns in more detail, but I want to note that, in
6 general, D.C. Garcia and the members of the Compliance
7 Bureau appeared to be receptive to the concerns we raised
8 during the meeting. We were especially pleased to hear
9 D.C. Garcia report that he is receiving the staff and
10 resources he has requested, if not now, in the near future,
11 to accomplish the Compliance Bureau's tasks and goals.
12 Investing in the success of the Compliance Bureau shows the
13 commitment of this administration's leaders to this reform
14 process.

15 D.C. Garcia has expressed a desire to meet every
16 six weeks to discuss APD's progress with APD Forward and
17 other community stakeholders. He has also requested that as
18 we identify issues, we also propose possible solutions,
19 suggesting APD is willing to make meaningful change. We
20 hope the City and APD not only provide regular opportunities
21 for us to share constructive feedback about the Compliance
22 Plan and its reform process, but are also willing to adjust
23 their plans and actions when needed.

24 We've also been closely watching the City's
25 search for the next police chief. On May 19th, at the

1 urgent request of the City and on short notice, APD Forward
2 hosted a listening session to provide the public an
3 opportunity to address the police chief selection committee.
4 During the session, APD Forward steering committee's Nancy
5 Koenigsberg of Disability Rights New Mexico and Robby
6 Heckman presented our police chief search criteria and
7 moderated questions from the public to the search committee.

8 APD Forward is concerned that the police chief
9 search committee is not representative of the residents of
10 Albuquerque and appears to be comprised of insiders who have
11 held public office or worked in government. We are
12 especially concerned by the recent news that the contractor
13 leading the search is on the search committee. APD was also
14 concerned when we heard -- APD Forward was also concerned
15 when we heard that the City wanted to complete the search
16 before the City Council adjourned for summer break, because
17 we believed the aggressive time line for the search is far
18 too rushed, making it impossible for the City to conduct
19 thorough, in-depth national search needed to recruit the
20 most highly qualified candidates.

21 We are happy to report that the City responded in
22 part to our concerns and extended the police chief search
23 beyond the City Council summer break. We are also pleased
24 to hear that while the interim chief has applied, the City
25 has reaffirmed its commitment to conduct a national search.

1 Additionally, we believe the City should incorporate our
2 police chief search criteria, conduct targeted recruiting
3 efforts to identify the best candidates across the country
4 and create additional avenues for the community to provide
5 meaningful input throughout the search process.

6 APD Forward welcomes all opportunities to become
7 more involved in the search process and provide feedback
8 about potential candidates. The Chief of the Albuquerque
9 Police Department is crucial to the success of this reform
10 process. The City has an obligation to invest an
11 appropriate amount of time and resources to ensure it
12 recruits the best possible candidate.

13 THE COURT: Thank you.

14 MR. HAIDLE: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. HAIDLE: My name is Paul Haidle with ACLU of
17 the New Mexico. And on behalf of the APD Forward coalition,
18 thank you for the opportunity to present this morning.

19 Your Honor, I'd like to speak just very briefly
20 about the recently filed progress report from the monitor
21 and from the City, as well as the use-of-force development
22 that's underway at this time. We at APD Forward completely
23 agree with the sentiment of the hitting reset, that that's
24 the right way to move this process forward, but we're also
25 happy that we are talking about some of the uncomfortable

1 truths that we've heard here this morning, things regarding
2 the training Academy, with the use-of-force backlog that
3 there was no deadlines for supervisors and so that led to a
4 lack of accountability. These are some of the hard truths,
5 I think, that are now known. They're out on the table. And
6 it's important to move ahead from that starting place.
7 We're very encouraged that the City is completely committed
8 to this and we look forward to seeing that expressed
9 commitment move into internalized commitment to the actual
10 moving forward with the implementation. We do want to,
11 though, echo the monitor's statement that the use-of-force
12 backlog does present a clear threat to this entire process.
13 The monitor called out a threat to policy development,
14 training development, supervision, and the need for command
15 oversight. These threats to this process demand a very
16 clear -- a very clear plan to address the force backlog and
17 the Policy Suite.

18 So to that end, Your Honor, the City does
19 acknowledge that there are missed opportunities. We heard
20 about the cases that are beyond 120 days and the challenges
21 that that will present for the City in dealing with
22 potential improper use of force. As of the writing of the
23 report, we heard that there are 314 supervisor use-of-force
24 investigations more than 120 days old. This is a problem.
25 One question, as we sat here this morning, that came to our

1 minds was the difference in some of the numbers that we've
2 heard this morning. I know that it was difficult for me to
3 track when we heard from Deputy Chief Medina about being at
4 186 cases versus we had also heard the number of 314. And
5 one question I would raise is what is the difference in
6 those numbers? Is it due to incoming cases versus older
7 cases that are more than 120 days? What, exactly, is the
8 disparity between those cases?

9 Your Honor, another --

10 THE COURT: We're going to hear -- we're going to
11 hear, by way of response, from the City Council. And I hope
12 they're taking notes because I want you-all to address these
13 concerns.

14 MR. HAIDLE: Thank you, Your Honor.

15 In the status report, the City does mention, on
16 page 20, as well, 72 serious use-of-force investigations
17 that have been removed from the review process. I don't
18 believe that we've heard about those 72 cases yet this
19 morning either. And that raised a red flag in our minds
20 that we would like to hear how it was determined that those
21 cases would be removed from the review process and what the
22 criteria was and how that decision was made.

23 Your Honor, as far as the development of the
24 Use-of-Force Policy, and then I'll wrap up, we're very
25 encouraged by the Use-of-Force Policy that's currently under

1 development. We think it's a very strong policy and an
2 incredible improvement over the existing policy, requiring
3 officers to use a minimum amount of force that is necessary
4 and proportional. That's exactly the right way we need to
5 go with the Use-of-Force Policy. Our understanding is that
6 the SOP 2-52, the Use-of-Force Policy Suite, will eventually
7 go through this new policy-development process, and that is
8 our hope with this. APD Forward is currently drafting
9 written comments on the policy and we will be submitting
10 that to the parties. And we hope that they will give them
11 serious consideration and respond in writing, when
12 appropriate, to those written suggestions as well.

13 Your Honor, as always, we are very grateful for
14 the opportunity to address you. And we'd be happy to stand
15 for any questions.

16 THE COURT: I don't have any questions for you,
17 but I appreciate your involvement; have from the start. And
18 we'll have some response for you shortly, I hope. Hope we
19 have time for that.

20 MR. HAIDLE: Thank you.

21 THE COURT: Thank you.

22 Mr. Maestas and Mr. Arellanes.

23 MR. MAESTAS: Thank you, Your Honor. Antonio
24 Maestas on behalf of the Community Coalition and I'll be
25 speaking on behalf of the Coalition. Alfred Matthews could

1 not be here this morning. We really appreciate the level of
2 cooperation between the City of Albuquerque, the APOA, the
3 Department of Justice, and the monitor's team in moving this
4 process forward. It's tremendously refreshing, what we've
5 been seeing the past couple, three, six months.

6 With regards to the TASER concerns we brought up
7 in April, those issues have been addressed. I want to thank
8 Chief Deputy Garcia in -- and DOJ in meeting with the amici.
9 We had a wonderful, frank conversation. There was very
10 little defensiveness, whatsoever, and we expressed our
11 concerns. The amici also learned a lot about police
12 procedures and safety precautions and things of that nature.
13 And I think that all of APD will be much more trained with
14 the actual manuals with regards to the use of those devices,
15 as well as the use of those device, so we thank you for
16 that.

17 Our number one concern, Judge, is that we urge
18 the monitor and the City of Albuquerque to meet the current
19 deadlines with regards to paragraph 298. I believe, in the
20 previous teleconference, August 1st was talked about as an
21 initial deadline and then, obviously, in November. If there
22 is documents produced by August 1st, we'd ask that they be
23 made available to us. And we understand, if they don't want
24 them to be made public at that time because I don't think
25 they'll be complete, but as you recall, Judge, paragraph 298

1 is with the outcomes assessments that we need to collect and
2 analyze the data regarding any trends and patterns that we
3 see with regards to use of force, use-of-force complaints,
4 and of course, violations of the policies. We have to
5 measure whether implementation is resulting in the outcomes
6 expressed in paragraph 294.

7 There's, you know, the common belief or argument
8 is that, well, if we would just weed out the bad apples, the
9 rest of the barrel will be intact. And that makes perfect
10 sense to a lot of people, but if we got rid of 8, 10, 12
11 officers today, there's still 900 officers in that same
12 institution. And so we have to look at the culture of that
13 institution. And sometimes it's difficult for those of us
14 who kind of -- whose brains prioritize individual
15 responsibility and things of that nature, but I'd ask the
16 Court to consider, you know, a sports team or a congregation
17 or a company, in this place, a government agency, and take a
18 step back and consider group dynamics, the science, the
19 sociological and political science of group dynamics. And
20 as you know, Judge, the behaviors, attitudes, opinions, and
21 experiences of each individual are collectively influenced
22 by the other group members. For example, when -- at the
23 City Council meetings, when family members of the
24 descendents would come with their grievances and have their
25 minute to speak publicly, you would see 20, 30, sometimes

1 more APD officers, commanders in the audience. Many of the
2 officers were not sitting in the audience, but were standing
3 up in the City Council chambers. Many of them were on the
4 benches outside. This doesn't need to be a collective,
5 organized effort, but that's how it happened. And it was
6 incredibly chilling, incredibly intimidating, not just to
7 the family members, but to the politicians and everybody
8 involved. Now, there's like four or five officers there.
9 The purpose is to answer any questions that the Council may
10 have throughout the meeting. But it's changed tremendously.

11 For example, the then Chief of the Union had a
12 T-shirt with the quote on the back -- you mentioned a
13 movie -- the Jack Nicholson character in *A Few Good Men*,
14 where he spewed off something to the effect of "you sleep
15 under the blanket of safety with which we provide and yet
16 question the means in which we provide it." That was the
17 quote on the back of the gentleman's shirt at the meeting.
18 That was not just the opinion of that one person, that was
19 the probably the majority or consensus opinion of the entire
20 Albuquerque Police Department at that time. And so we're
21 just grateful to the new leadership because any group
22 dynamic starts at the top, mayor, chief, deputy chiefs,
23 commanders, but once we get down to the sergeants and the
24 rank-and-file, when those sergeants and patrol officers
25 share -- share the belief that they take personal

1 responsibility in community policing and constitutional
2 policing, that they criticize their officers whether back in
3 the -- back at the substation for lunch or in a formal
4 proceeding, only then will we truly have an entire cultural
5 shift within the Department that is consistent with the
6 settlement agreement and the needs of this community.

7 Lastly, Judge, the update on Mr. Arellanes'
8 harassment claims. We want to thank you so much for taking
9 that seriously. That was a little bit of like -- a little
10 bit of negative chatter on social media with regards to how
11 can the judge call for an investigation with such thin
12 proof. Well, an allegation brought forth in this setting is
13 proof enough to move forward. A gentleman named Paul
14 Skotchdopole of APOA is investigating. He met personally
15 with Mr. Arellanes and on May 30th, and we look forward to
16 his findings.

17 One of the specific complaints was Mr. Arellanes
18 lives about seven houses from the nearest street corner in
19 which there is a church catty-corner to his house. And
20 officers, literally every night, two or three officers would
21 be in their cars, at least one of them facing directly the
22 front of his house. We know that, as officers do paperwork
23 and things of this nature now, they're encouraged to go to
24 public places and be kind of seen. Since this -- the last
25 court hearing, none of them have used that church parking

1 lot to do their paperwork and whatnot. And the
2 investigator -- as you know, Judge, when an officer goes to
3 a particular location, they kind of punch in their location
4 in a computer-automated system. And it's public record to
5 obtain these CADs, or Computer Automated Dispatch logs. So
6 I'm sure that a lot of this stuff is coincidental, but
7 nonetheless, it is very intimidating to a person,
8 particularly the most outspoken member of our community
9 calling for DOJ investigations prior to the arrival of the
10 settlement agreement and the monitor. So we look forward to
11 that and we thank you.

12 Also just the appreciation that the Court has
13 taken in providing amici the opportunity to address the
14 Court. In speaking with other advocacy groups in Seattle
15 and other cities, it's unique if not the only one in the
16 country, the only court in the country, that's allowing this
17 opportunity, so we want to thank you very, very much for
18 that. I think it's very, very important and really wraps up
19 the whole need for the community to be involved in this
20 process, the Court process, not just the entire process, so
21 thank you very much. Because a true democracy in the City,
22 which we believe we're on the cusp of, involves criticizing
23 the government without -- without being in fear of
24 intimidation of that very government with which you're
25 criticizing. I know we think of that in other historical

1 contexts or third-world countries, but it happened in our
2 fair city just a short time ago. And we're coming out of
3 that now and we want to thank you. So we look forward to
4 participating throughout fall and summer and visiting you
5 again in November.

6 THE COURT: Thank you, Mr. Maestas.

7 MR. MAESTAS: Thank you.

8 THE COURT: Yes, sir. Thank you.

9 Mr. Cubra?

10 MR. CUBRA: Thank you, Judge.

11 THE COURT: Yes, sir.

12 MR. CUBRA: As always, I have a deep appreciation
13 that you're allowing me to speak on behalf of the subclass
14 members of McClendon. Thank you. And I want to echo what
15 Representative Maestas said. I think your choice to do it
16 this way and have the community involved the way that we are
17 is one of the most positive things that's happening because,
18 whatever happens, at some point this lawsuit will end, and
19 then it's on the community to keep whatever gains we've made
20 intact. And so thank you very much.

21 I'm going to just run quickly through my list.
22 The McClendon settlement agreement has been mentioned here
23 by others. I will say it this way: We deserve to be the
24 little sister to this lawsuit with respect to the police
25 department, but the McClendon settlement agreement is

1 problematic in this way: You've been told correctly that,
2 back in April, there have been changed Standard Operating
3 Procedures put in place. We're waiting for the Court's
4 monitor to approve one last one. But the City, because
5 they're so busy with other training, has said that they
6 won't get around to actually putting the training before the
7 officers in a classroom until February or March. And so
8 it's nice to change the writings, and they are going to send
9 out a video telling officers about these changes, but there
10 is so much going on that even though they do take McClendon
11 seriously, they're not going to be able to slot that
12 training in until next February and March. So the McClendon
13 case will continue to be involved with the Police Department
14 for at least that long until the training happens. The
15 court order that Judge Parker signed requires them to
16 implement these Standard Operating Procedures before the
17 McClendon case will no longer be addressing the Police
18 Department.

19 There is one other piece of that settlement
20 agreement to remind you about, and it requires the City to
21 work with the County to both establish and to be involved in
22 the allocation of resources for jail diversion mental health
23 services. Because many of the worst episodes that we've
24 seen in this lawsuit have to do with people having serious
25 psychiatric problems and police officers interacting with

1 them. And it's the paucity of behavioral health services in
2 our community, which is also true in yours, in Las Cruces,
3 which oftentimes has led to these episodes of violence. And
4 so the City has still got obligations under the McClendon
5 settlement agreement to help get some jail diversion mental
6 health care into our community to reduce the frequency of
7 these intense encounters.

8 I want to speak to the status report and praise
9 the City for it, because it is the first time that the City
10 provided a status report in this lawsuit, in a court filing,
11 where I thought they were being honest. That's a big
12 statement. And so whatever nitpicking I might have about
13 whether all of those words were exactly how I would have
14 said it, that is an honest assessment of where things are
15 at. And Mr. Sullivan said he's now doing the training.
16 That report actually made an explicit acknowledgment that
17 the APD instructor's demeanor and dismissive attitude in
18 training community people about use-of-force issues was
19 problematic. And he said they've acted. And somebody who
20 has been doing that training for a decade, they'll find
21 something else for him to do and not do that anymore. And
22 so hallelujah that someone who is not embedded in the past
23 is going to be doing use-of-force training. It's a really
24 good thing. And it's a good report.

25 The Compliance Plan, there's a lot to celebrate

1 there. I think they said over 90 percent of the things set
2 out in that document, they have done. And as best I can
3 tell, that's accurate. But the point I made last time I
4 want to reiterate: That Compliance Plan was not ambitious
5 enough and not long-term enough. The first draft of that
6 plan, which they gave to us for comment, contained many
7 other things and they took out a lot of the content in order
8 to put high energy into the things they thought were, one,
9 most important, two, could do quickest, but with 90 percent
10 of them now accomplished, it's time to carry on. That
11 Compliance Plan should be a living document, it should be
12 much longer-term than it has been, and it should be
13 reiterated with additional things added.

14 And just for everyone's reference, Document 358,
15 which was given to you before our March hearing, filed in
16 court, has, at pages 3 and 4, a list of eight other things
17 which were in the first iteration of the Compliance Plan.
18 And those things and probably some other things ought to be
19 embedded into the next generation. And the Compliance Plan
20 should go on and on. It should be the step-by-step
21 mechanism for guiding this process. And it is noteworthy
22 that none of us have seen any updating of the Compliance
23 Plan, any changes to it, any comments within it. And so it
24 really is time for the City to take it another step and
25 start making their Compliance Plan a public document that is

1 longer-term, more comprehensive, and routinely provided to
2 the public.

3 The Compliance Division is the essential piece.
4 We've talked about it over time. And the people who have
5 been showing up and the work that they're doing is
6 exemplary. No criticism there. They will need to take
7 these next steps. They still need to fully staff up. And
8 then they need to reduce to writing for all of us to see, of
9 course, the Court and the parties and then the public, to
10 see like what is it that they're doing and what are their
11 rules and how are their procedures. They have been so busy
12 doing things, they haven't had time to write down what they
13 should be doing, but Government must do that in order to be
14 accountable. And so that remains a piece that, hopefully,
15 they will have time to do sometime soon because it's
16 essential to an enduring process and to a remedy that will
17 continue after the lawsuit is over for this Compliance
18 Acquisition to be formalized beyond the way it has been thus
19 far.

20 I want to also praise that it's my understanding
21 that ethical policing is courageous or epic. It is
22 something that they're borrowing from New Orleans and it
23 makes lot of sense. Because the culture change piece is
24 only at the beginning. God bless you for having us here now
25 for four years, but we're nowhere close to where we should

1 have been. And it's because some other people used to be in
2 this room who weren't committed to this change. And now
3 that we have people who are, we're going to do the best that
4 we can, but these processes take a very long time. And to
5 change the culture -- I'll just quote one person and then
6 I'll be done: Just at the end of May someone who I respect
7 a lot said these words: "There are still lots and lots of
8 issues at APD. The deep-seated bunker-mentality culture
9 goes right down to every unit and shows up in a different
10 way. It's just a realization that reforming APD in reality
11 is going to be a unit-by-unit exercise and that is going to
12 take years."

13 That was the mayor who said that. And he's
14 right. This project is at a very early stage, sad to
15 report, and we're going to be at it for years. And I just
16 want to thank you on behalf of my 15,000 clients who get
17 jailed annually and say to you that we're going to be at
18 this for a while and I hope that you'll stick with us.

19 Thanks very much.

20 THE COURT: Thank you, Mr. Cubra.

21 Mr. Sylvan. And Ms. Woodward.

22 MR. SYLVAN: Good morning, Your Honor.

23 THE COURT: Good morning.

24 MR. SYLVAN: Chris Sylvan --

25 THE COURT: Yes, sir.

1 MR. SYLVAN: -- Community Policing Council
2 manager and Ms. Woodward with the Northeast Community
3 Policing Council.

4 THE COURT: Good morning.

5 MR. SYLVAN: Just wanted to give you a quick
6 update, and these are just bullets on what's happened since
7 the last time we spoke. The CPCs are still exceeding the
8 CASA requirement of meeting twice a year. They're meeting
9 monthly still. I think that's a great positive direction
10 that they've been going. It's become the national model so
11 far. Membership is up for voting members. Applications are
12 up. In the first three months, I measured from the first
13 three months of '17 versus the first three months of '18,
14 and during '17, we had double digits, I want to say, like,
15 15 applications, but the past three months of this year,
16 we've had like 30. So that's double. Because of this, one
17 of our councils has now over ten members. They were so
18 happy with the applicants that applied to be voting members
19 of the council that they just changed their bylaws to expand
20 membership.

21 We've also filmed a video on YouTube showing the
22 Community Policing Councils. That was done with the Office
23 of Neighborhood Coordination. The reason for this is to
24 inform the public and others what the Community Policing
25 Councils do. And I know technical assistance has been

1 brought up a lot of times in this court this morning. And
2 the CPCs have received technical assistance from Dr. Rickman
3 from the monitoring team. They will receive technical
4 assistance tomorrow and Wednesday from Dr. Leal, who is also
5 with the monitoring team. And later in the summer, there
6 will be social media training technical assistance for the
7 CPCs and APD staff as well.

8 Moving forward, I think we're going in a right --
9 a good direction. We still have some kinks in the road that
10 we need to work out. Diversity both in the membership of
11 the CPCs, voting members, and audience members of the CPCs
12 could be better. We've been doing much outreach in that
13 direction. Ms. Woodward has been helpful and so has
14 Mr. James Lewis over there. So we're getting there. And
15 with that, Your Honor, I stand for questions.

16 THE COURT: Gosh, what a positive report that
17 was. National model? You know what? We've all been
18 talking about that for a long time. We want this process
19 overall to be a national model. And yes, it's going to take
20 awhile and we've been at it awhile, but applications are up
21 to be on your councils. People are invested to the point
22 that they're not just meeting twice a year, as originally
23 thought, but monthly. That just says so much about the
24 willingness of a community to be involved. I really
25 appreciate a positive report whenever I get one, so thank

1 you for that.

2 MR. SYLVAN: I was going to tell you, in fact,
3 Your Honor, a gentleman from Webster Groves, which is where
4 Ferguson is located, he reached out to me and they want to
5 start their own policing councils and they are looking at
6 the Albuquerque model.

7 THE COURT: You know, I talked to somebody from
8 Ferguson when we were in Ft. Worth in February. And they
9 were looking at Albuquerque, you know, to see about things
10 we were doing. I don't know if it was the same person, but
11 Ms. Woodward, please.

12 MS. WOODWARD: Dorothy Woodward, D-O-R-O-T-H-Y,
13 W-O-O-D-W-A-R-D. I'm a member of the Northeast Community
14 Council. I've been listening to everyone and, believe me,
15 ladies and gentlemen, I am grateful that you have spoken
16 about cultural change and change of attitude, which will
17 lend to behavioral change.

18 Your Honor, since January 2015, Community
19 Policing Councils and the public have been verbally promised
20 sustainability of CPCs long after CASA comes into compliance
21 and the monitor's team exits. Our community requires more
22 than this, especially as Mayor Keller and APD have committed
23 to constitutional and community policing. As such, the
24 Northeast CPC has initiated two proposals for consideration.

25 In speaking for my council and during meetings

1 and in correspondence with my city councilor, APD, DOJ,
2 Dr. Lewis, and the City, and then forwarded e-mails to the
3 City Council attorney and director, I introduced the
4 following:

5 In the first proposal, we are asking that the
6 City Council soon codify and memorialize CPCs to function,
7 operate, and serve in perpetuity. We also proposed the
8 position of CPC manager be moved from appointed to
9 classified status rather than at the will of future mayoral
10 administrations. I must note here that during two meetings
11 of which I was present and spoke of these, others suggested
12 that a full-time classified position of assistant be added
13 to the office of CPC manager. Our Northeast CPC requests
14 that the City Council collaborate with us to bring forth
15 these proposals as ordinances.

16 On another subject, the Northeast CPC has
17 established four committees of which we engage attendees for
18 feedback. Presently, committees are reviewing APD policies
19 and previously submitted recommendations. We are also
20 examining ways to expand community outreach and involvement.

21 Any questions, Your Honor?

22 THE COURT: No, no, ma'am. I'm interested to
23 hear how the City is responding. I know that the City has
24 responded in a positive way to an extent. I'm interested to
25 see what their response is to this new proposed ordinance.

1 MS. WOODWARD: From my city councilor, it's been
2 positive. So thank you.

3 THE COURT: Great. Great. Good news and thank
4 you again for all of your effort.

5 MS. WOODWARD: You're welcome, Your Honor.

6 And one moment, please. I'd like to say
7 something.

8 And now I'd like to say to all parties, let us
9 conduct ourselves with integrity and respect as we work for
10 the common good of this community we call home.

11 Thank you, Your Honor.

12 THE COURT: Yes, ma'am. Thank you. Wise words.
13 I hope, well heeded.

14 Thank you.

15 Mr. Whatley? My old friend, Mr. Whatley, you
16 know, it's great.

17 MR. WHATLEY: Hello, Your Honor.

18 THE COURT: I come to Albuquerque and I don't
19 know everyone, but I like to see a familiar face.

20 MR. WHATLEY: I have a familiar face, that's for
21 sure, Your Honor.

22 THE COURT: It's familiar to me.

23 Please.

24 MR. WHATLEY: Your Honor, I'm Danny Whatley, of
25 course, and I'm co-chair of the Mental Health Response and

1 Advisory Committee with Rick Miera. I've been involved in
2 that committee since the very beginning. The committee is
3 made up, of course, as outlined by the court-appointed
4 settlement agreement, of service providers and professionals
5 in law enforcement within our community and, in that
6 committee, responsible for assisting and working with the
7 City on policies, training, information sharing, and
8 resources.

9 We work really, really closely with the Crisis
10 Intervention Unit and have done so from the very beginning.
11 I know we hear a lot of negative things about the last
12 administration, but our involvement with the City of
13 Albuquerque has always been a stellar arrangement, has been
14 one that has just been one that has helped us get things
15 done. And I'm here today to let you know about some of the
16 accomplishments of our Crisis Intervention Unit, starting
17 with an article that you should have before you. It was an
18 article that was presented to and appeared in the *American*
19 *Journal of Psychiatry*, and that publication is the premiere
20 peer-reviewed psychiatric journal in the world. And the
21 article is entitled "Collaboration to Reduce Tragedy and
22 Improve Outcomes: Law Enforcement, Psychiatry and People
23 Living with Mental Illness." And the article was co-written
24 by Dr. Nils Rosenbaum, who is the only psychiatrist employed
25 full-time in a police department, Det. Matthew "Matt" Tinney

1 and Dr. Mauricio Tohen. Dr. Rosenbaum, as you know, is a
2 Director of Behavioral Health within the Police Department
3 and was the Director of the Crisis Intervention Unit.
4 Det. Matt Tinney is a member of APD and has been
5 instrumental in recognizing, implementing and equipping the
6 standard of conduct and training that is necessary for
7 modern law enforcement as it relates to dealing with those
8 experiencing mental health crises and their interaction with
9 law enforcement. Dr. Tohen is the Chair of the Department
10 of Psychiatry at the University of New Mexico. The article,
11 itself, outlines three areas that actually deals with how
12 APD has set up their Crisis Intervention Unit. And it deals
13 with inclusive collaboration, training and, third,
14 coordinated responses.

15 And that's what we're seeing within the
16 Department, is they are, for the first time, and as a
17 long-time law enforcement officer, this is a first for me to
18 see law enforcement actually not only inviting professionals
19 within the community in, but encouraging those to be
20 involved in the process. As I advised the Court the last --
21 at the last staff -- the conference, the training that
22 the -- that CIT puts together is one of those that's made up
23 primarily and the majority of those trainers are from the
24 community, professionals and service providers from the
25 community. So it is one of those that inclusive

1 collaboration, the training, of course, is going on. And
2 coordinated responses, that is one that I'll talk about a
3 little bit later as I go forward. And it's one of those
4 things where all of those first responders and all of those
5 involved in a crisis situation needs to be on the same page,
6 and the Crisis Intervention Unit is certainly accomplishing
7 that.

8 The article encourages as well as gives examples
9 on guidance on how to improve mental health/police
10 collaborations. Your Honor, you should also know that Matt
11 Tinney is the first detective ever published in that
12 prestigious journal, so we should certainly be proud of
13 that, as I said. You have a copy of that and we'd like to
14 make it a part of record, if there's no objections.

15 THE COURT: Yes, sir.

16 MR. WHATLEY: Presentations is the next part.
17 Our CIU has been recognized and considered a leader in the
18 area of crisis intervention and has often been asked to do
19 presentations throughout the nation. They were given the
20 opportunity this last May to present in New York City. You
21 should have in front of you, Your Honor, a three-page
22 document that is the guide for the 2018 annual meeting of
23 American Psychiatric Association where the Crisis
24 Intervention Unit gave two presentations to the group. The
25 first was entitled "Why don't the police just shoot them in

1 the leg: Law Enforcement, Psychiatry, and People Living
2 with Mental Illness." And the second presentation was
3 entitled, "How to Bring Psychiatric Training to Law
4 Enforcement in your Community, an Innovative Approach."
5 Again, it shows the level of expertise and the respect that
6 our Crisis Intervention Unit within APD is receiving.

7 And Your Honor, the third thing I'd like to tell
8 you about is an honor. In 2017, our Crisis Intervention
9 Unit received Team of the Year by the City of Albuquerque
10 and the Albuquerque Police Department. And I'll read
11 directly from the documents recognizing them and give you
12 what they were recognized for. (Reading) "The Crisis
13 Intervention Unit has recently received national recognition
14 for their innovation, leadership, knowledge, and effort.
15 The team was featured in a recent publication of *American*
16 *Journal of Psychiatry*, which discusses how the program works
17 with the mental health community. In addition, the team was
18 invited to present twice at the prestigious International
19 Association of Police Chiefs Conference and the Crisis
20 Intervention Team International Conference in Florida. They
21 also hosted the Crisis Intervention Team Knowledge Network,
22 ECHO, Extensions of Community Healthcare Outcomes Project,
23 which brings physicians and officers together to staff cases
24 and raise the standards in law enforcement interactions with
25 people living with mental illness. This project also brings

1 experts in mental health and crisis intervention to officers
2 by video telecommunication platform, giving them access to
3 continuing education. The Crisis Intervention Team has
4 coached collaboration and education of police officers, jail
5 staff, and mental health professionals. The team has
6 trained 120 APD officers in enhanced crisis intervention and
7 is a part of policy development and outreach programs, such
8 as the Crisis Outreach and Support Teams, or COAST, which
9 coordinates resources with different agencies."

10 To update you on some of the numbers, Your Honor,
11 that was given in that award letter, the training has also
12 been -- actually, to give that update, the CIU and APD has
13 now trained 196 officers in the Enhanced Crisis Intervention
14 training, with some additional training scheduled in July.
15 This training has also been taught to 9 crime-scene
16 specialists, 20 police-service aides, 90 3-1-1 operators,
17 and 120 dispatchers. They have also trained personnel from
18 the mayor's office, local attorneys' offices, their
19 respective staff, personnel from local hospitals, public
20 libraries, and medical students. They have increased their
21 number, with all of this training, by three new detectives
22 and one new COAST person. One of their longtime members of
23 the Crisis Intervention Unit, Det. Bonnie Briones, won the
24 Advocacy in Mental Health award from the Psychosocial
25 Rehabilitation Association of New Mexico.

1 Finally, Your Honor, you talked -- we've talked a
2 lot about mental crisis, mobile crisis teams, joint effort
3 between the County and the City, and all of those units that
4 are -- that have been stood up so far have all been through
5 the CIU training and the enhanced CIU training.

6 And the last thing I've got, Your Honor, is to
7 talk about communication. One of the things that the MHRAC
8 has discovered is first responders and those involved in
9 mental health crisis and those involved responding to
10 homeless issues are sometimes not on the same page. The
11 Albuquerque Fire Department is not a part of the CASA
12 agreement, except as they are a part of the City and
13 employees of the City, but the Fire Department has taken it
14 upon themselves to attend our meetings and communicate now
15 directly from the command level down. One of the issues we
16 had with the old administration was that there was a wall
17 between AFD and APD and there was really little or no
18 communication on the command level. We're now seeing a
19 change in that area, as the Albuquerque Fire Department is
20 opening communications, as is APD, so that the first
21 responders not only can be on the same page, but training
22 together and seeing some of that accomplished.

23 Finally, Your Honor, I attended the first
24 meetings of that fledgling group that was created through
25 the CASA that is now known as the MHRAC or the Mental Health

1 Response and Advisory Committee. I had my doubts about its
2 effectiveness and to the ability of it to come together and
3 work together. And we've seen some of that today, how slow
4 sometimes these things go. But as I began to work closely
5 with the Crisis Intervention Unit and saw their heart and
6 saw their drive in this group of dedicated law enforcement
7 officers and civilians from the top down, I changed my mind.
8 I have told anyone who would listen, and I tell you today,
9 Your Honor, that the Albuquerque Police Department and
10 Crisis Intervention Unit will become the standard in how to
11 deal with those experiencing crisis and those interacting as
12 first responders. In some areas of our country, this is
13 already an accepted fact and soon, very soon, Albuquerque's
14 Police Department and the Crisis Intervention Unit will be
15 that agency that everyone else in law enforcement looks to
16 for leadership and guidance in that area.

17 And Your Honor, that's all I have, unless you
18 have any questions for me.

19 THE COURT: Mr. Whatley, I don't think I have any
20 questions, just my thanks to you for all of the work you've
21 done with MHRAC and crisis intervention. And I hope
22 somebody was writing all that down and I hope that gets
23 reported because that is an outstanding report.

24 And you've been here from the beginning. You
25 know progress is slow, but goodness, to talk in terms of one

1 of our units being a national standard is exciting to me and
2 I really do appreciate it, and it ought to be exciting to
3 our community.

4 MR. WHATLEY: Thank you, Your Honor.

5 THE COURT: Yes, sir. Thank you.

6 Mr. Aguilar?

7 MR. AGUILAR: May it please the Court, Your
8 Honor.

9 THE COURT: Yes, sir.

10 MR. AGUILAR: I will address a couple of the
11 concerns that I can, and then defer and ask for some
12 guidance from those who have more involvement.

13 First, relating to the concerns by Mr. Haidle and
14 APD Forward coalition, as he addressed, the City has been
15 working very closely with our partners in the community to
16 implement and to note -- to implement the changes
17 recommended by the CASA, but also to try to keep the
18 community as updated as possible and to hear a portion of
19 those concerns. We've been working with Mr. Haidle, not
20 just on CASA-related issues, but other areas of concerns
21 within the police department. The question that, I think,
22 that he had raised was he would like clarification on the
23 difference between the several use-of-force numbers, and so
24 I'll defer to Mr. Schmehl, the Assistant Albuquerque City
25 Attorney to -- and Deputy Chief Medina on that.

1 THE COURT: Come forward, gentleman.

2 Mr. Schmehl, good morning.

3 MR. SCHMEHL: May it please the Court and good
4 morning, Your Honor.

5 THE COURT: Of course.

6 MR. SCHMEHL: So with regard to the backlog
7 conversation, I think words are extremely important. The
8 word "backlog" in this context relates to the discovery in
9 the fall of 2017 of significantly delayed cases that
10 basically cripple the use-of-force reporting and
11 investigation system to the point that Dr. Ginger and the
12 sixth report didn't look at more cases. I think we're all
13 aware of that history.

14 Now, to further define that and define it
15 actually, more importantly, moving forward, the City and
16 Department looked at that list and then moved forward.
17 Because what that list represented was a static snapshot.
18 Now, every day a case is coming into the system, whether
19 it's a use-of-force or a serious use-of-force investigation
20 is started, at that point of the snapshot, you could have
21 had a case that was 90 days old, 80 days old or what have
22 you, but not 120 days old. So what the Department and City
23 did is it moved forward from that point in time and swept
24 those cases into the backlog as they aged to the point of
25 being considered worthy -- not necessarily worthy of review,

1 but rising to that level of urgency where you're considering
2 the administrative time line to impose discipline.

3 So from September 20th, 2017, with regards to
4 supervisor use-of-force investigations that move forward and
5 sweep is what took place. And that's how we arrived, or the
6 City and Department arrived, at the 314. The PowerPoint
7 slides explain that. And what is going to happen now, Your
8 Honor, is that the City is going to file a more explanatory
9 brief to the community, to the Court to explain it in better
10 terms because, this morning, as I was listening and
11 obviously picked up on the fact that there is some confusion
12 about what that means.

13 Now, with regard to Deputy Chief Medina's work,
14 he's dealing with active cases coming into the system. And
15 those are all field use-of-force cases. And what he's done,
16 his initiative, is to make sure that another backlog is not
17 created. So he has the website that they've -- they have.
18 I think it's actually just a -- it's a Blue Team entry
19 report. And Blue Team, of course, being the initial entry
20 that starts a use-of-force an administration perspective.
21 He is taking a real-time approach to making sure that those
22 cases do not age, so that nothing could be missed from that
23 look forward from September 20th, 2017, and the definition
24 of a, quote-unquote, backlog.

25 Now, with regard to the serious use-of-force

1 cases, what that represented, those numbers, 26 of those
2 have been completed by the chain of command and are ready
3 for presentation to the Force Review Board. The approach to
4 those is the same as the review of the supervisor
5 use-of-force investigations that have been created by the
6 chain of command. And the reasoning there is not to
7 interject an investigator or reviewer into the chain of
8 command and to let it finish, and that's the reason why you
9 have the other -- the other serious use-of-force
10 investigations that will be completed and reviewed to the
11 same level of scrutiny as those 26.

12 So there's -- there are quite a few moving
13 pieces, Your Honor. I apologize for any confusion it causes
14 to the Court or the community, but moving forward, we're
15 going to continue that information being pushed out. We'll
16 make ourselves -- the City and Department will make
17 ourselves available to the amici where they have questions.
18 I encourage APD Forward to reach out to the City. We want
19 to very transparently address the problem, very effectively
20 address the problem, and make sure that -- you know, it
21 stands at the heart of reform, so it's taken very seriously.

22 THE COURT: And Mr. Schmehl, when do you think
23 you'll have that, the written explanation, filed? I really
24 do think that would be helpful because I've been sitting
25 here listening, too, and I'm not clear. So when do you

1 think you might have that?

2 MR. SCHMEHL: Your Honor, I can get that to the
3 Court next Wednesday. Unless you tell me to get it to you
4 sooner.

5 THE COURT: Next Wednesday, day after tomorrow?

6 MR. SCHMEHL: The following Wednesday after the
7 first Wednesday.

8 THE COURT: See how they are? I'll look forward
9 to it a week from Wednesday. All right.

10 MR. SCHMEHL: Thank you, Your Honor.

11 THE COURT: Mr. Medina -- or I'm sorry, I've
12 forgotten your rank.

13 D.C. MEDINA: Deputy Chief, sir.

14 THE COURT: Yes, sir.

15 D.C. MEDINA: One of the things like we talked
16 about earlier, it's very confusing. And that was some of
17 the confusion we walked into as an administration because we
18 had to gain an understanding that what are all these
19 backlogs? Which one means what? And the best way to
20 explain is a two-tier process. There's the cases -- the use
21 of force happens. The officer enters it. The sergeant does
22 an initial review. Then after the sergeant does the initial
23 review, the lieutenant reviews it. The commander reviews
24 it. And after the commander reviews it, it gets put into
25 IAPro.

1 Once it's put into IAPro, that's where the second
2 backlog kind of was occurring, where these cases need to be
3 put into the system, they need to be evaluated. And a
4 review process happens, which Cdr. Middleton was talking
5 about where they will review them, they will look for
6 patterns, training deficiencies, and they'll take a sample.
7 Was something missed in the initial review by the one of our
8 command-level officers that needs to be addressed?

9 So I think that's the best way to look at it is,
10 is it's kind of a two-tier process. The first process is
11 where I'm responsible to make sure that these cases are done
12 with the new established time frame of 60 days. That's our
13 goal. And the 186 was an early number of cases that were
14 stuck in that first tier. Now, what I can tell you is those
15 numbers change daily. It all depends on if a case is
16 cleared by the commander and what cases are coming in as new
17 use-of-force, and now also which cases are going beyond the
18 60 days. So as I finished, I got an updated number from our
19 section that runs these numbers for us. And as of 9:58 this
20 morning, we have 44 cases which have gone beyond the 60-day
21 mark, which we're trying to eliminate. That is the
22 first-tier backlog that we're trying to get everything under
23 60 days, stop that delay past 60 days. Of those 44 cases,
24 35 of them are from 60 to 120 days in age and 9 are from 121
25 to 180 days in age. There is a grand total of 133 cases in

1 the system. 89 of those cases are use of force and 15 are
2 show of force. And those ones would be from 0 to 59 days --
3 or 60 days when we want them completed. So we have 133
4 cases that we're going to have to ensure that we get done in
5 a timely fashion, and that is our goal, but we're still
6 dealing with the now reduced cases that were not completed
7 within those 60 days, which is the 44 cases beyond 60 days.

8 Does that make sense? It's very --

9 THE COURT: You know, I said earlier I'm not a
10 patient guy and I'm darn sure not a numbers guy. So I --
11 somebody suggested, you know, being an accountant? It -- I
12 didn't go because of -- I just don't do numbers, but you
13 know what? I am going to look forward to that written
14 explanation that I can study a little bit, and I'll bet the
15 community is, too.

16 I just know, from a judge's perspective, I have
17 cases submitted to me. And my goal, once they're fully
18 submitted, fully briefed, is to have a decision within 60
19 days. And those that I don't, I know, and they're always
20 bothering me, so that's my backlog. So I'm trying to put
21 your two-tier system into my little, you know, nimble head,
22 and we'll -- I'm looking forward to the report. But thanks
23 for your attempt.

24 D.C. MEDINA: Your Honor, also just one last
25 thing: If it helps, I know you were talking about numbers

1 earlier. I actually e-mailed and said, "Can I have the
2 freshest, current numbers, as of today?" And if you'd like,
3 I can give you the current crime reduction numbers, as
4 through today, itself, for those crime categories we spoke
5 about earlier.

6 THE COURT: And those numbers would be comparing
7 the first five months of --

8 D.C. MEDINA: It would be comparing through
9 June 11th of '17 through June 11th of '18.

10 THE COURT: Give us the numbers.

11 D.C. MEDINA: Auto theft is at negative
12 14 percent, which was -- has gone down a little bit more.
13 Auto burglary is at negative 31 percent. Residential
14 burglary has gone up to a negative 11 percent. Commercial
15 burglaries are up to a negative 12 percent. Robberies are
16 down a little bit, but they're still up a negative
17 39 percent. And traffic stops are up 51 percent. Thank
18 you, Your Honor.

19 THE COURT: Thanks for the current numbers.
20 Appreciate that.

21 MR. AGUILAR: May I proceed, Your Honor?

22 THE COURT: Yes, sir.

23 MR. AGUILAR: I know we have a lot to cover in a
24 short amount of time, so from the -- Mr. Cubra, we
25 appreciate working with Mr. Cubra and the kind words. We do

1 have more work to do in our efforts on the -- both the
2 mental health and the homelessness front. The jail -- as
3 far as the jail diversion and mental health services, the
4 City, several entities within the City and departments, are
5 currently working on finalizing the agreement with members
6 of the County on our single-site housing initiatives. Those
7 all are tied together with mental health and homelessness in
8 our communities. And as was pointed out, the Crisis
9 Intervention Team is doing tremendous work, but I also have
10 to commend Chief Dow and the Albuquerque Fire and Rescue for
11 the job that they have been doing. Again, this is a unified
12 effort in our communities. And it's going to take all of us
13 working together. It will take time to implement those
14 changes, but it's in the works, Your Honor.

15 Finally, the Community Police Councils, with
16 Director Silva and Ms. Woodward, we are happy to continue to
17 work closely with them, as well as the U.S. Attorney's
18 Office on all recommendations that we can consider. And
19 we'll work with the Council, as well as any other members of
20 the community who are interested.

21 I stand for questions, Your Honor.

22 THE COURT: Gosh.

23 MR. AGUILAR: Did I miss...

24 THE COURT: You got it covered pretty quickly. I
25 appreciate that.

1 MR. AGUILAR: I know we have like 20, 25 minutes
2 left, and there are several major topics on the agenda.

3 THE COURT: I know. So let's look, then, at
4 status of ongoing review and revision of Use-of-Force
5 Policies. Is that where we are?

6 MR. AGUILAR: I believe so, Your Honor. Thank
7 you.

8 MR. SCHMEHL: May it please the Court?

9 THE COURT: Yes, sir.

10 MR. SCHMEHL: Your Honor, the City filed a motion
11 to extend the deadline in paragraph 86 which related to the
12 Use-of-Force Policies and training and their review. And
13 Your Honor entered an order last week granting that
14 extension.

15 In that motion, a calendar was set out for the
16 review of the Use-of-Force Policies, the one on -- the
17 general Use-of-Force Policy definitions. There's a new
18 deescalation policy, and there's going to be a Use-of-Force
19 Reporting and Investigation Policy as well. We've had
20 pretty good success, I would say. You know, I don't want to
21 jinx ourselves, but we've had good luck with the general
22 Use-of-Force Policy, as Dr. Ginger stated earlier, based on
23 his assessment, it's approvable by him. So that's very good
24 to hear.

25 The Police Oversight Board and the CPOA sat in on

1 those meetings, will continue to sit in on those meetings
2 and have the ability to make recommendations directly to the
3 group. They also are acting as a conduit for community
4 recommendations, as these policies are going through the
5 process. And this is -- to be clear, Your Honor, this is
6 the technical assistance process, or opportunity that the
7 City is availing itself of before the policy development
8 process, which is anticipated by 352, which is the
9 Department Standard Operating Procedure.

10 So this Thursday, at the Police Oversight Board,
11 for the first time, there will be a public discussion of a
12 Standard Operating Procedure related to the Department. And
13 I think it is at the heart of reform, the general
14 Use-of-Force Policy. It speaks to a lot of different
15 things. And so the City is very happy about it. The
16 Department is looking forward to it. So there will be that
17 public discussion and everyone in the courtroom is invited.
18 They have an e-mail blast, it's on the website and those
19 types of things, so we look for that to be well attended.

20 THE COURT: And where is that?

21 MR. SCHMEHL: So Your Honor, it will be
22 5:00 P.M., June the 14th, in council chambers. So there
23 will be that opportunity. And then, moving forward, Your
24 Honor, we have, as set out in the motion, a very specific
25 time line for the rest of the Use-of-Force Policies to be

1 discussed and considered.

2 And that is it, Your Honor. I know that we're on
3 a tight time line and I want to be considerate of other
4 speakers, unless you have other questions?

5 THE COURT: No, sir. Thank you.

6 Ms. Hults is going to talk about the update on
7 the promotional policy. And I'm not prepared to rule,
8 certainly. I've only seen the response within the -- well,
9 as I came in this morning. So I just -- I'm glad to have an
10 update, but --

11 MR. KILLEBREW: Your Honor, I apologize for the
12 walking around. I was doing a little stage managing to
13 figure out how we can best use the next 20 minutes that we
14 have of your time. I think we have a little bit more,
15 actually, on the Use-of-Force Policies. And then our --
16 everyone has agreed that we can move straight on there to
17 Mr. Harness' presentation. And that will probably take us
18 to the end of the day.

19 THE COURT: That's great. Your time to manage.

20 MR. KILLEBREW: Thank you, Your Honor.

21 MR. RYALS: Good morning, Your Honor. Steve
22 Ryals on behalf of the United States. May it please the
23 Court?

24 THE COURT: Yes, sir.

25 MR. RYALS: I thought I would address, briefly,

1 the changes that the parties have agreed to, that is, the
2 United States and Albuquerque have agreed to, with regard to
3 3-52. There's been a lot of -- the Use-of-Force Policy.
4 There's been a lot of discussion about culture change, and
5 it might be good for the Court to understand a little bit
6 about the focus and the precise changes that have been made
7 to 3-52.

8 As you know, APD revised the policy and presented
9 that to the United States. The United States proposed
10 substantial edits that were designed to make the policy
11 clear, concise, direct, and directive. We had seen in the
12 monitor's reports and we had heard from officers that the
13 previous iteration of 2-52 was not clear and confusing to
14 the officers. And we sought to remedy that in concert with
15 the work of APD.

16 The problems, as we perceived them in the
17 previous iteration were the confusion between the Graham
18 standard and what the CASA requires. As the Court is well
19 aware --

20 THE COURT: I'm sorry. Go ahead.

21 MR. RYALS: The Graham standard simply measures
22 whether an officer can use force in a given circumstance.
23 And the Court's order, the CASA, asks the questions should
24 the officer use force. It requires that the officers use
25 the minimum amount of force necessary, use deescalation,

1 that the force be reasonable and necessary and proportional.
2 None of those things are required by Graham. And our effort
3 was to try to make the policy clear that there is a single
4 standard.

5 I will probably not do the account justice, but
6 Commander Sullivan shared with me a bit of training he has
7 in mind on the current draft of the policy, the new policy,
8 to illustrate the difference between what the minimalist
9 Graham standard would require and what APD policy requires.
10 So he'll forgive me if I mess this up, but he talked about a
11 scenario training where the training would come into a
12 scenario where, under Graham, they would be justified in
13 using force, but the correct response of the officer is to
14 not jump in and use force; that is, if they jump in and use
15 force, even though Graham would permit it, they failed the
16 exercise because the APD policy requires more. And I
17 thought that was a poignant, a very exciting bit of
18 training.

19 Culture shift that we've talked about here today
20 begins with good policies. It then proceeds to good
21 training. And it ultimately manifests itself on the street
22 as good supervision and good accountability. And we have an
23 ideal opportunity here with the changes to 2-52 to work --
24 begin the work of changing the culture with regard to the
25 Use-of-Force and APD. In fact, it may be a

1 once-in-a-lifetime opportunity. And we're very excited both
2 about the changes that the United States and Albuquerque
3 have agreed to. We're also very excited about the robust
4 community input that we will get. We appreciate the APD
5 Forward comments and we're looking forward to getting their
6 written submissions as well.

7 Ultimately, we believe that the newest version of
8 2-52 provides clear guidance, concise guidance, direct
9 guidance and is very directive. Importantly, it is a
10 trainable policy. It will reflect community input. And we
11 have every expectation that it will reflect best practices
12 in policing, promote adherence to the United States
13 Constitution and, perhaps most importantly, conforms to the
14 Court's orders.

15 I'll answer any questions the Court has.

16 THE COURT: I'm good, Mr. Ryals. Thank you.

17 MR. RYALS: Thank you.

18 THE COURT: Yes, sir.

19 Mr. Mowrer?

20 MR. MOWRER: Your Honor, very briefly, 2-52, the
21 use parties, are working together to and have approved a
22 policy that's being considered. I just want to make it very
23 clear for Court that "parties" does not, the way it's
24 currently drafted and being discussed, include the APOA.
25 There are some issues with some of the language being

1 deleted out of 2-52 that the APOA has brought to the
2 attention of the parties and is currently working with the
3 parties to address. So I just wanted the Court to know
4 that.

5 THE COURT: Well, and I'm sure you'll keep me
6 advised.

7 MR. MOWRER: Yes, I will, sir.

8 THE COURT: Yes, sir. Thank you.

9 Time manager, what's next?

10 MR. KILLEBREW: Your Honor, I believe Mr. Harness
11 was going to report on the investigation that the CPOA has
12 conducted about the allegations that Ralph Arellanes made in
13 court last time.

14 THE COURT: Thank you.

15 MR. HARNESS: If it please the Court, good
16 morning, Your Honor. Edward Harness from the CPOA. I'm the
17 executive director. Given the time, I believe all the
18 parties do now have Exhibit 5, which is our ten-page
19 investigative report regarding the allegations of
20 Mr. Arellanes. We examined the behavior of the Department
21 in relation to its retaliation policy, which is 1-14(E) (10)
22 and (11), which states (reading), "Retaliation by any member
23 of this Department is expressly prohibited. 'Retaliation'
24 includes intentional adverse conduct towards any individual
25 or group not otherwise authorized by law or policy in

1 response to the individual or group taking these actions,
2 exercising their legal right, making or supporting a
3 complaint, making or supporting a claim, making a charge,
4 testifying, assisting, or participating in any manner with
5 an investigation, proceeding, or hearing, exercising their
6 lawful duties. 'Retaliation' includes, but is not limited
7 to threats, intimidation, coercion or other adverse actions
8 against any person in the workplace or community."

9 As the Court is aware, Mr. Arellanes made
10 allegations in his presentation to the Court in March of
11 2018. Based upon the settlement agreement and the City
12 Ordinance, that Complaint filtered its way through from
13 Deputy Chief Garcia to the Civilian Police Oversight Agency
14 for us to conduct the investigation because the
15 investigation involved a citizen.

16 I'm just going to go through some of the
17 highlights. I think it's important to put into context the
18 fact that Mr. Arellanes has utilized the previous iteration
19 of the CPOA, the IRO office, back in 2007 with a
20 use-of-force issue, which led to the termination of two
21 officers that were involved. He also then made similar
22 allegations as to harassment and intimidation from members
23 of APD. Amongst his allegations for this Complaint, besides
24 what was presented to the Court, the investigation also
25 revealed an incident from October 26th of 2016, an

1 incident in mid-November, and then there's also allegations
2 of abuse of by the arrest of Mr. Arellanes' son, which
3 happened in December of 2017.

4 Our investigator interviewed members of the
5 Albuquerque Police Department which attended the March 8th
6 meeting, which Mr. Arellanes believed was pivotal to part of
7 the harassment. We also canvased his neighborhood, spoke
8 with neighbors. We looked for video evidence to
9 substantiate the allegations of spotlighting his house
10 intentionally numerous times, on any occasion. And what we
11 learned was that Officer V, who lives in the neighborhood
12 and who knows Mr. Arellanes, is also assigned to that area.
13 That's Squad Area 422. Mr. Arellanes knows Officer V and
14 they have actually exchanged cell phone information and they
15 see each other almost on a daily basis.

16 As it relates to --

17 THE COURT: Mr. Harness, I'm sorry. They see
18 each other in what context?

19 MR. HARNESS: On a daily basis as neighbors.

20 THE COURT: Just as neighbors?

21 MR. HARNESS: As neighbors, correct. Correct.

22 So I'm sort of going backward, but so, yes,
23 Mr. Arellanes has a neighborly relationship with Officer V,
24 who lives seven doors down from Mr. Arellanes, and he's also
25 assigned to the area where he lives.

1 There have been recent burglaries in the
2 neighborhood. There was a home that was burglarized, an
3 unoccupied home. There was also a 24-hour daycare center in
4 that same area, which has requested more patrols. And
5 Officer V says that, yes, he has on occasion, when
6 responding to burglary calls or when patrolling the
7 neighborhood, because he lives there and has been a victim
8 of an auto burglary, he will drive through the alleys and he
9 will use his alley lights and spotlights to drive through
10 the alleys on occasion when he's not on a call.

11 They have also responded to calls, the burglary
12 calls, within the neighborhood. We've looked at all of the
13 Computer Aided Dispatch. We detailed a number of calls
14 within the squad area and then Officer V's partner, Officer
15 R, who is Squad Area 423. Those are the two squads that sit
16 in the church parking lot and do reports. They do that
17 because they live in the neighborhood, they want to be seen
18 in the neighborhood, and they feel it's a safe place for
19 them to sit and do reports in between calls.

20 As it relates to the WiFi or the surveillance
21 04APD screenshot which Mr. Arellanes provided, we were able
22 to determine that that WiFi is a neighbor a block away.
23 That neighbor related to us that when they first moved in,
24 people would sit in front of their house and use their WiFi.
25 And as they told themselves -- or as they called themselves

1 "Apple Geeks," they decided to change the name of the WiFi
2 so that it would be less susceptible to people sitting in
3 front and using it. So they have three WiFi networks at
4 their house, Surveillance 4 -- I'm sorry, Surveillance APD
5 4, Surveillance APD 5, and Searching.... That's the
6 explanation for the "surveillance."

7 As it relates to the arrest of Mr. Arellanes'
8 son, there were two occasions when the police have been to
9 his home since November of 2017. The first was to take a
10 burglary report, where Mr. Arellanes' son reported that
11 people were in his home. On the second occasion,
12 Mr. Arellanes' son called to say that he had shot somebody,
13 that there was a burglar in his home, an intruder, and that
14 of the two intruders, he had shot one of them in the foot
15 and that he was still in the house, moaning. And so the
16 officers went to the home. They responded within two
17 minutes of the call. There was a search of the residence
18 and no one was found. There was no blood evidence found.
19 However, there was evidence of discharge of a firearm from
20 within the home, one round, going outside the home toward a
21 neighbor's home. In that search, they also found a stolen
22 APD shotgun, which, through a miscommunication in the NCIC
23 system, did not show up as stolen, but later was discovered
24 to be stolen. So there was probable cause to arrest his son
25 at that point.

1 Throughout the transactions and the interactions
2 that Mr. Arellanes has reported, he has been unable to
3 provide any information with -- relating to descriptions of
4 officers, descriptions of vehicles, vehicle numbers, license
5 plate numbers, none of those things. None of that
6 information throughout these years is noted by Mr. Arellanes
7 at any point in time. So it is our finding that, at this
8 point, those allegations are unfounded.

9 So I stand for questions.

10 THE COURT: Well, thank you for the report for
11 the investigation. And does -- I don't want to open it up,
12 but any comment?

13 And your investigative report, it's dated today,
14 so when was this first disseminated and has Mr. Arellanes
15 seen this?

16 MR. HARNESS: Mr. Arellanes has not seen it. It
17 was just disseminated this morning.

18 THE COURT: Okay. Because, certainly, I was --
19 this is the first time I'd seen it. Thank you.

20 Ms. Martinez?

21 MS. MARTINEZ: Your Honor, I know it is coming up
22 on noon and that is the end of this hearing. I'd like to
23 make a request, please. There are a couple of other items
24 on the agenda that we simply will not be able to get to, and
25 one of them was an item on changing cultures within police

1 departments. And I will ask if maybe we can have that item
2 on a future hearing because it is something that has been
3 discussed in passing several times during this hearing, and
4 it is something that I know that Chief Geier and Mr. Lewis
5 and the City Attorney and I were prepared to discuss this
6 morning. We know that it's something that is very important
7 to this Court and to this community, and we know that it is
8 not something that can be covered in 30 seconds.

9 The other thing is, Judge, that there are two
10 exhibits that are in the Court's exhibit book that we ask
11 you accept as exhibits so that we can go ahead and have the
12 Court review it and also make them available to the
13 community. Both of them have been mentioned during this
14 hearing. One is a PowerPoint presentation that relates to
15 the Community Policing Program that Chief Geier already has
16 been implementing in the Albuquerque Police Department.
17 That has been mentioned today during the program. And the
18 other one is a training program. It's a peer-intervention
19 program called EPIC that Chief Geier has started introducing
20 at the Albuquerque Police Department. And that is Ethical
21 Policing is Courageous. And that was designed by the New
22 Orleans Police Department and it encourages and authorizes
23 police officers to actively intervene when other officers
24 are engaged in conduct that is unethical, illegal, or
25 against policy, regardless of rank. And as I mentioned,

1 that is something that Chief Geier and Deputy Chief Garcia
2 participated in, a few months ago, in New Orleans. And they
3 brought that program back here to Albuquerque and they've
4 already started introducing that program here in Albuquerque
5 for all Albuquerque police officers. And I know that that's
6 something that Chief Geier -- actually, might he have a
7 couple of minutes to tell you a little bit about that
8 program?

9 THE COURT: Yes, ma'am. And without objection,
10 your exhibits can be made a part of the record.

11 (Government's Exhibits 1 and 2 were admitted into evidence.)

12 And with regard to the cultural-shift
13 presentation, I wonder if I might just ask that you reduce
14 that to writing. I expect that you had significant notes
15 anyway. Reduce that to writing and file it as -- under that
16 heading, Presentation. I'll review it and so the public
17 will have an opportunity as well. And if you still want to
18 have that revisited on subsequent hearing, we'll take it up
19 at that time.

20 Chief, very briefly, please.

21 CHIEF GEIER: Good morning, Your Honor. Thank
22 you very much for a few seconds here. Basically, APD has
23 listened to the suggestions of the monitoring team, and
24 we're continuing to reach outside the Department to try to
25 change a variety of programs that are going to be beneficial to

1 the transformation of the Department. We know that the
2 dynamics, the culture, has been embedded in APD for decades.
3 And as Mr. Maestas has mentioned, it's difficult to change
4 and get to the roots of it.

5 So one of the first things we did is we attended
6 some training in New Orleans, Deputy Chief Garcia and
7 myself, on the EPIC program. It was a conference held by
8 their department over two days. We were trained in the
9 basic precepts of the program, and what we decided is that
10 it was -- the positive impact it had in New Orleans
11 Department affected that Department in a great way. They've
12 made great progress in terms of it building community trust,
13 change in the culture of their officers, and reducing
14 citizen complaints.

15 So we brought this back to APD. We made
16 arrangements with New Orleans PD to come out. And they
17 brought two of their trainers. They came in late May and
18 they met with our Academy staff. They also met with a group
19 of selected officers, trained specially [sic] officers that
20 are going to train our personnel in this program. And they
21 helped prepare them for that with a trainer trainer program
22 for the first day.

23 They then conducted an introductions seminar for
24 our management training on May 25th. And this was
25 attended by 145 members of our supervisors, managers, and

1 command staff, both sworn and civilian. This program goes
2 from top to bottom. It was -- this also was featured on one
3 of local news stations.

4 So what we're going to be doing with this EPIC
5 program is we're going to be conducting this in-service
6 training for our personnel. Rather than at the Academy,
7 we're going to do it offsite at the area commands, where the
8 officers work with each other, and at other sites throughout
9 the city throughout -- for the next several months. We
10 believe this peer performance intervention program will
11 attain similar positive outcomes as achieved by the New
12 Orleans Police Department.

13 So this is a good example of our initial efforts
14 to change the culture of APD. Thank you.

15 THE COURT: Chief, thanks for attending that.
16 Judge Morgan, a friend of mine who is running the consent
17 decree in New Orleans, invited me as well, and I couldn't
18 go. And I'm glad someone was there and I -- obviously, you
19 took it to heart. You brought the program here and we're
20 already benefiting from it.

21 And that is about as big a cultural shift as you
22 can ask that, you know, officers report on each other,
23 counsel with each other in the field. And I just wish you
24 good luck with the adoption of the program. And it is
25 further evidence of your and the administration's interest

1 in being positive, hands-on, moving the process forward. So
2 thank you for that.

3 CHEIF GEIER: Thank you.

4 THE COURT: And if we go any longer, my staff
5 will have my head because we have to start again in just a
6 few minutes.

7 Thank you-all for being here this morning. We
8 tried to cobble this into an already full day, and so I'm
9 sorry for having to move everyone along. Although, I'm
10 thinking, as a model, it might not be bad for the future,
11 because I can't tell you how many times -- well, you-all
12 heard, you know, "I'll just be brief, Judge," so people
13 actually listen when I say something.

14 So thank you-all. Let's keep up the good work.
15 And next time, we're going to be talking about substance
16 again, Dr. Ginger. And I'm encouraged. I really am. Thank
17 you-all for your time.

18 (The proceedings concluded at 12:04 P.M.)

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1 UNITED STATES OF AMERICA

2 DISTRICT OF NEW MEXICO

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4 CERTIFICATE OF OFFICIAL REPORTER

5 I, Vanessa I. Alyce, RPR, NM CCR, and Federal Official
6 Court Reporter in and for the United States District Court
7 for the District of New Mexico, do hereby certify that
8 pursuant to Section 753, Title 28, United States Code, that
9 I did report in stenographic shorthand to the best of my
10 skill and ability the foregoing pages 1-141 of the
11 proceedings set forth herein, that the foregoing is a true
12 and correct transcript of the stenographically recorded
13 proceedings held in the above-entitled matter and that the
14 transcript page format is in conformance with the
15 regulations of the Judicial Conference of the United States.

16
17 Dated this 20th day of June 2018.

18
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